IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 82 of 2016

The Pr. Commissioner of Income Tax-4
Mumbai .. Appellant
v/s.
M/s. Reliance Supply Chain Solutions Ltd. ..Respondent

Mr. A.R. Malhotra for the appellant
Mr. Madhur Agarwal a/w Mr. Raj Darak for the respondent

CORAM : M.S. SANKLECHA &
ANUJA PRABHUDESSAI, J.J.
DATED : 4th MAY, 2018.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 25th March, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2009-10.

2. The Revenue has urged only the following substantial question of law for our consideration :-

> *(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the disallowance of Rs.14,81,34,192/- of Project Development Expenses made by the Assessing Officer considering it as Capital Expenditure against the Assessee's claim to be considered it as Revenue expenditure u/s 37(1) of the Income Tax Act?*

3. The impugned order of the Tribunal dismissed the Revenue's

appeal before it by holding that similar facts were involved in the earlier assessment year namely Assessment Year 2008-09, where the co-ordinate bench of the Tribunal had held that these expenses cannot be held to be capital expenditure but are revenue in nature.

4. Mr. Malhotra, learned Counsel appearing for the Revenue very fairly points out that the Revenue had preferred an appeal to this Court from the decision of the Tribunal in respect of the respondent assessee for Assessment Year 2008-09 being Income Tax Appeal No.892 of 2014. This Court by an order dated 5th July, 2017 dismissed the Revenue's appeal. No distinguishing features have been shown to us in the subject assessment year to that existing in the earlier Assessment Year 2008-09. Therefore, for the reasons indicated in our order dated 5th July, 2017 while dismissing the Income Tax Appeal No.892 of 2014 in respect of same respondent assessee for Assessment Year 2008-09, no substantial question of law arises for Assessment Year 2009-10. Thus, not entertained.

5. Accordingly, the appeal is dismissed. No order as to costs.

(ANUJA PRABHUDESSAI, J.) **(M.S. SANKLECHA, J.)**