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

INCOME TAX APPEAL NO.455 OF 2016

Pr. Commissioner of Income Tax-14, Mumbai … Appellant

V/s.

M/s Oleofine Organics (India) Pvt. Ltd. … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.Girish Dave with Mr. Atul Jasani for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.

DATE : NOVEMBER 19, 2018.

P.C.:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 17th April, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order dated 17th April, 2015 of the Tribunal relates to Assessment Year 2010-11.

2. Mr.Suresh Kumar, learned counsel appearing for the Revenue urges the following question of law for our

consideration:-

> "1) Whether in law, and in the facts and circumstances of the case, the Tribunal was correct in holding conditions for qualifying as a small scale industry was to be fulfilled in the initial year alone and not on year to year basis for grant of deduction under Section 80-IB?"

3. Appeal admitted on the above substantial question of law. At the request of the parties, the appeal itself is being disposed of finally at this stage.

4. It is agreed position between the parties that the aforesaid question stands concluded against the Respondent-Assessee and in favour of the Appellant-Revenue by the decision of the Supreme Court in **Deputy Commissioner of Income Tax Vs. ACE Multi Axes Systems**[1].

5. Therefore, the substantial question of law is answered in the negative i.e. in favour of the Appellant-Revenue and against the Respondent-Assessee.

1 ITA No.477 f 2013 decided on 28th July 2014.

6. Accordingly, Appeal allowed.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

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