R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL (IT) NO. 634 OF 2016

Pr. Commissioner of Income Tax -6 .. Appellant

Versus

M/s. Bharat Barrel & Drum Mfg. Co Ltd .. Respondent

....

- Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the Appellant
- Ms. Vasanti Patel for the Respondent

....

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

DATE : DECEMBER 10, 2018.

P.C.:

1. This appeal under Section 260 A of the Income Tax Act, 1961 (Act), challenges the order dated 30.6.2015 passed by the Income Tax Appellate Tribunal, Mumbai (“**the Tribunal”** for short). This appeal relates to the Assessment Year 2008-09.

2. Mr. Malhotra, the learned counsel for the Revenue, urges the following re-framed question of law for our consideration.

> "(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in directing to allow the set off of brought forward depreciation losses of amalgamating company for the assessment years 1996-97 and 1997-98 i.e for the period prior to amendment in sub-section (2) of Section 32 of the Act, with effect from April 1, 2002?"

3. Mr. Malhotra very fairly states that the issue arising herein now stands concluded against the Revenue and in favour of the respondent assessee by the decision of this Court in the case of **Commissioner of Income Tax Vs. Hindustan Unilever Ltd** reported in **[2017] 394 ITR 73 (Bom)**. It is further brought to our notice that the Revenue's Special Leave Petition from the order of this Court in the case of Hindustan Unilever Ltd (supra) has also been dismissed by the Hon'ble Supreme Court which is reported in **[2018] 99 taxmann.com 135 (SC)**.

4. In view of above, the proposed question does not give rise to any substantial question of law. Thus, not entertained. Appeal dismissed.

[M.S. SANKLECHA, J.] **[AKIL KURESHI, J]**