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

INCOME TAX APPEAL NO.601 OF 2017

The Pr. Commissioner of Income Tax – 32 ... Appellant
versus
M/s. Vandana Properties ... Respondent

Mr. A.R.Malhotra, for Appellant.
Mr. Atul Jasani, for Respondent.

CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE: 11th JUNE, 2019

P.C.:

1. This Appeal is filed by the Revenue to challenge the Judgment of the Income Tax Appellate ("the Tribunal" for short) raising following questions for reconsideration :

> "(i) Whether on the facts and circumstances of the case and in law the Hon'ble Tribunal was justified in holding that the claim of deduction u/s 80IB (10) of the Act is allowable although the commencement certificate by the Municipal Authorities for the housing project was granted on 09-06-1993 prior to 01-10-1998 as required by Section 80IB (10) for the commencement certificate in respect of Wing 'E' where the deduction is claimed, was only an endorsement / extension to the existing certificate granted to the assessee in the year 1993 ?
>
> (ii) Whether on the facts and circumstances of the case and in law,

the Hon'ble Tribunal was right in allowing the claim of deduction u/s 80IB (10) of the Act, that mandates the project be on the size of plot of land which has a minimum area of one acre, whereas Wing 'E' for which deduction u/s 80 IB (10) is being claimed, did not have the requisite size of one acre ?"

2. The learned Counsel for the Revenue fairly stated that today these questions are squarely covered in the case of Commissioner of Income Tax V/s. Vandana Properties[1], on which infact the Tribunal has in the impugned Judgment placed reliance. No question of law arises. The Income Tax Appeal is dismissed.

(S.J.KATHAWALLA, J.) **(AKIL KURESHI, J.)**

1 [2013] 353 ITR 36 (Bom)