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

INCOME TAX APPEAL NO. 1352 OF 2016

Pr. Commissioner of Income Tax-14 .. Appellant

v/s.

M/s. SBI Fund Management Pvt. Ltd. .. Respondent

Mr. Suresh Kumar for the appellant
None for the respondent

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

DATED : 30th JANUARY, 2019

P.C.

1. The Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short) raising following question for our consideration :-

> *"(i) Whether on the facts and circumstances of the case and in law, the Tribunal is correct in confirming the order of CIT(A) and setting aside the reopening of assessment made under Section 147 of the Act on the ground that there was no material on record to justify the reopening of assessment?"*

2. Learned Counsel for the Revenue fairly pointed out that the issue in the present appeal is identical to one arising in Income Tax Appeal

No. 1138 of 2016, which appeal in turn arises from the same judgment of the Tribunal which is impugned in this appeal. The Income Tax Appeal No..1138 of 2016 was dismissed on 9th January, 2019 making following observations :-

> *"2. The issue pertains to validity of reopening of assessment. The in the impugned judgment noted that the ground on which the notice on reopening the assessment was passed, was examined during the original scrutiny assessment. The Tribunal noted that the Assessing Officer had carried out a full enquiry with respect to the question of prior period expenditure. The Assessee had supplied full details and only thereupon the assessment order under Section 143(3) was passed. That being the position, the Tribunal was of the opinion that the notice of re-opening the assessment was based on a change of opinion.*
>
> *3. We are in agreement with the view of the Tribunal. Since the issue was examined by the Assessing Officer during the original scrutiny assessment, again resorting to reassessment on such a ground was only impermissible. In the result, the Appeal is dismissed."*

3. In the result, this appeal is also dismissed.

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