IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL No. 977 of 2016

Pr. Commissioner of Income Tax,
Central-2 ..Appellant.
Vs
M/s Passionate Investments
Management Pvt. Ltd. ..Respondent.

Ms. Padma Divakar, Advocate for the Appellant.
Mr. Atul Jasani, Advocate for the Respondent.

CORAM : AKIL KURESHI &
B. P. COLABAWALLA, JJ.

DATED :- 8TH JANUARY, 2019.

P.C. :

1 The Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal ("**the Tribunal"** for short) Following question of law is presented for our consideration:-

> Whether on the facts and in circumstances of the case and in law, the order of the Tribunal was justified in upholding the decision of the learned CIT (A) that the profit from sale of investment has to be under the head 'Capital Gains' instead of 'business income' without appreciating that the Assessee is a Trader and not an Investor as can be ascertained by the AO in its Assessment order?"

2 The learned Counsel for the appellant pointed out that the identical issue came before this Court in the Income Tax Appeal No. 2345 of 2013 and connected appeal. The appeal was dismissed by a detailed order dated 27th June, 2016. Without recording separate reasons this appeal is also dismissed.

(B.P. COLABAWALLA, J.) **(AKIL KURESHI, J)**