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

INCOME TAX APPEAL NO.1027 OF 2016

Pr.Commissioner of Income Tax-24 … Appellant

V/s.

M/s Neeta Enterprises … Respondent

Mr.Suresh Kumar for the Appellant.
Ms.Aasifa Khan i/by Mr.Niraj Punmiya for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : JANUARY 16, 2019.

P.C.:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 9th October, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). This Appeal relates to Assessment Year 2009-10.

2. The Revenue urges the following question of law for our consideration:

> “Whether, on the facts and circumstances of the case and in Law, the ITAT has factually and

statutorily erred in allowing deduction u/s. 80IB (10) of the I T Act, 1961 to the assessee without appreciating the fact that the assessee has not completed the project within the stipulated time?"

3. The impugned order of the Tribunal dismissed the revenue's appeal by following the decision of its co-ordinate bench in **M/s Krish Enterprises Vs. ACIT (ITA No. 5554/MUM/2014) dated 5th January, 2015**. In the above case, the Tribunal had taken a view that in respect of the projects approved prior to 31st March, 2005 there was no requirement of obtaining completion certificate in terms of the amendment made in respect of Section 80IB(10) of the Act. Further, the Tribunal also placed reliance upon the decision of Delhi High Court in case of **Commissioner of Income Tax-1 Vs. CHD Developers Ltd.[1].**

4. Mr. Suresh Kumar learned counsel appearing for the revenue very fairly states that this issue now stands concluded against the revenue and in favour of the revenue-assessee by the decisions of this Court in case of **Commissioner of Income Tax 25 Vs. Sai Krupa Developers (Income Tax Appeal No.1540 of**

1 (2014) 43 taxmann.com 249(Delhi)

2012) decided on 1st October, 2014 and The Pr. Commissioner of Income Tax-31 Vs. M/s Krish Enterprises (Income Tax Appeal No. 1146 of 2015) decided on 5th March, 2018. In the above cases this court upheld the view of the Tribunal that in cases where comment certificate has obtained before 31st March 2005, there was no requirement of obtaining completion certificate before a particular date.

5. Therefore, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

6. Accordingly, the tax appeal is dismissed. No order as to costs.

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

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