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

INCOME TAX APPEAL NO. 1356 OF 2016

The Pr. Commissioner of Income Tax-1 .. Appellant

v/s.
M/s. Bennett Coleman & Co. Ltd. .. Respondent

Mr. Suresh Kumar for the appellant
Ms. Sherry Goyal a/w Mr. Jas Sanghavi I/b PDS Legal 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 questions for our consideration :-

> *“(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was correct in upholding the decision of the CIT(A) stating that the disallowance u/s 14A should not be made as per Rule 8D for the assessment year under consideration relying on the decision of the Hon'ble Bombay High Court in the case of M/s. Godrej & Boyce Mfg. Co. Ltd., however, the decision of the Hon'ble Bombay High Court has not been accepted by the Department and Special Leave Petition has been filed before*

Hon'ble Supreme Court of India on this issue?

(i) Whether on the facts and in the circumstances of the case and in law, the Tribunal was correct in law by relying on the decision of the Hon'ble Bombay High Court in the case of M/s. Godrej & Boyce Mfg. Co. Ltd., wherein operation of Rule 8D was made prospective, disregarding the fact that method of working of disallowance provided in Rule 8D has been accepted as a reasonable method in the same judgment?"

2. The Revenue contests the preposition that Rule 8D inserted in the Rules w.e.f. year 2008-09 would have only prospective application. The Revenue concedes that the said position was declared by this Court in the case of ***M/s. Godrej & Boyce Manufacturing Co. Ltd. Vs. DCIT, 328 ITR 81***. However, at the time of filing of the appeal, the Revenue had carried the said judgment of this Court in appeal before the Supreme Court. Now, the Supreme Court has also confirmed the decision of this Court in the case of ***CIT Vs. Essar Teleholdings Ltd. 401 ITR 445***. In that view of the matter, no question of law arises.

3. The tax appeal is dismissed.

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