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

INCOME TAX APPEAL NO. 1599 OF 2016
ALONG WITH
INCOME TAX APPEAL NOS. 1600 OF 2016, 1602 OF 2016
1606 OF 2016 AND 1611 OF 2016

Pr. Commissioner of Income Tax-29 .. Appellant

v/s.

M/s. Abhilasha Combines .. Respondent

Mr. Arvind Pinto a/w Mr. N.C. Ranganayakulu for the appellant
None for the respondent

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

DATED : 6th FEBRUARY, 2019

P.C.

1. These Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenge the common order dated 29th October, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order relates to Assessment Years 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09.

2. The identical question of law presented by the Revenue before us in all five appeals are as under :-

"Whether in law and on the facts of the instant case, was the Tribunal right in holding that the project was eligible for deduction u/s 80IB(10) when the commercial area constructed was 3920 square feet in excess of the area as specified in Section 80IB(10)(d) ?

3. Mr. Pinto, learned Counsel appearing in support of the appeals very fairly points out that this issue now stands concluded against the Revenue and in favour of the respondent assessee by the decision of the Apex Court in the case of ***Commissioner of Income Tax Vs. Sarkar Builders, 375 ITR 392.*** In the above case, it has been held that introduction of clause (d) to Section 80IB(10) of the Act w.e.f. 1st April, 2005 would not apply to the projects, approved prior to 1st April, 2005. In the above view, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

4. All the five appeals are dismissed. No order as to costs.

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