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

INCOME TAX APPEAL NO. 1607 OF 2016

Pr. Commissioner of Income Tax-5 .. Appellant

v/s.

M/s. M. Suresh & Co. Pvt. Ltd. .. Respondent

Mr. Sham Walve for the appellant
Mr. B.V. Jhaveri for the respondent

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

DATED : 23rd JANUARY, 2019

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 30th October, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). This appeal relates to Assessment Year 2008-09.

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

> *"Whether on the facts and in the circumstances of the case and in law, the Tribunal has erred in allowing assessee's appeal regarding loss on Forward Contracts in foreign exchange when the assessee does not deal in foreign exchange and is a diamond merchant?"*

3. It is an agreed position between the parties that the issue raised herein stands concluded against the appellant Revenue and in favour of the respondent assessee by the decision of this Court in the case of ***CIT Vs. D. Chetan & Co. 390 ITR 36***. In the above view, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

4. Appeal is dismissed.

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