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

INCOME TAX APPEAL NO.396 OF 2017
WITH
INCOME TAX APPEAL NO.397 OF 2017

The Pr.Commissioner of Income Tax-14 … Appellant

V/s.

M/s Indian Seamless Steels and Alloys Ltd. … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.Nishant Thakkar with Miss Jasmin Amalsadvala i/by M/s PDS Legal for the Respondent.

CORAM : AKIL KURESHI AND
SARANG V.KOTWAL, JJ.
DATE : APRIL 30, 2019.

P.C.:-

1. These appeals are filed by the revenue. Common facts arise in these appeals. We may notice facts from Appeal No. 396 of 2017.

2. Following question has been presented by the revenue for our consideration:-

> "Whether on the facts and circumstance of the case and in law, the Tribunal was correct in allowing the expenditure of Rs.26,30,65,934/- incurred on DSRM trial run as revenue expenditure without

appreciating the fact that the expenditure has been incurred before commissioning?"

3. The respondent-assessee is a limited company. The issue arises out of the return of income by the assessee for the assessment year 1997-98. The Assessing Officer had disallowed certain expenditure treating as pre-operative expenditure. CIT (Appeals) and the Tribunal ruled in favour of the assessee coming to the conclusion that the assessee was not starting a new business. The assessee was already engaged in the same line of forging business since financial year 1993-94. The assessee had installed new machinery for better management of the business. The assessee had thus employed improved technique for production as the part of existing business. These finding of facts are not seriously controverted by the revenue. Concurrent findings of the CIT(Appeals) and the Tribunal thus are the assessee had incurred expenditure not for starting of new business, but for improving output in the existing business. No question of law arises. Income Tax Appeals are dismissed.

(SARANG V. KOTWAL, J.) **(AKIL KURESHI, J.)**

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