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

INCOME TAX APPEAL NO.198 OF 2017

Pr.Commissioner of Income-Tax-8 … Appellant

V/s.

M/s Reliance life science Pvt. Ltd. … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.Madhur Agarwal with Mr.P.C.Tripathi i/by Mr.Raj B. Darak for the Respondent.

CORAM : AKIL KURESHI AND
S.J.KATHAWALLA, JJ.
DATE : JUNE 10, 2019.

P.C.:-

1. Revenue has filed this appeal against the judgment of the Income Tax Appellate Tribunal. Following questions are presented for our consideration:-

> “a. Whether on the facts and circumstances of the case and in law, the ITAT is justified in directing the assessing officer to re-compute the disallownace u/s.14A of the Act, on a reasonable basis holding that the method adopted by Assessing Officer is not applicable to the year under consideration i.e. Assessment Year 2007-08?
> b. Whether on the facts and circumstances of the case and in law, the ITAT was justified

> in allowing expenses on clinical trial u/s 37 of the Income Tax Act, 1961 without appreciating the facts of the case and legal matrix as clearly brought out by Assessing Officer which was upheld by CIT (A)?"

3. Question No.a pertains to disallowance under Section 14A of the Act r/w Rule 8D. Since for the period under consideration i.e. for the assessment year 2007-08 Rule 8D had no applicability, as in the previous year, the Tribunal placed the matter back to the Assessing Officer for making reasonable disallowance. No question of law arises.

4. Question No.b relates to the deduction of expenditure under Section 37 of the Act. Initially, in relation to the expenditure on clinical trial the assessee had claimed weighted deduction under Section 35(2AB) of the Act. Later on, the same was discarded and alternative claim under Section 37(1) of the Act was made. The Tribunal came to factual finding that the expenditure was revenue in nature. The Tribunal rejected the revenue's objection that not having claimed

previously, the assessee was precluded from raising the claim under Section 37(1) of the Act. We do not find any error in the view of the Tribunal. In the result, Income Tax appeal is dismissed.

(S.J.KATHAWALLA, J.) **(AKIL KURESHI, J.)**

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