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

INCOME TAX APPEAL NO. 744 OF 2017

The Pr. Commissioner of Income Tax-7 .. Appellant
v/s.
M/s. Merck Ltd. .. Respondent

Mr. Suresh Kumar for the appellant
Mrs. A. Vissanji a/w Mr. S.J. Mehta for the respondent

**CORAM : M.S. SANKLECHA &**
**NITIN JAMDAR, J.J.**

**DATED : 16th SEPTEMBER, 2019**

**P.C.**

**1.** This appeal under Section 260A of the Income Tax Act, 1961 (the Act) challenges the order dated 31st March, 2016 passed by the Income Tax Appellate Tribunal (Tribunal). The impugned order dated 31st March, 2016 is common order for Assessment Years 2009-10 and 2010-11. This appeal relates to Assessment Year 2009-10.

**2.** The Revenue urges only the following re-framed questions of law for our consideration :-

*"(a) Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in deleting the addition made by TPO / AO by applying CUP to arrive at ALP in respect*

*of Bisoprolol Fumerate without giving adjustment for quality as claimed by the assessee?*

*(b) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in law to delete the adjustment relying upon entity level margins despite the fact that payment of technical fees is a distinct international transaction which has to be separately benchmarked?*

**3.** The Revenue had also filed an appeal on the above two questions from the common impugned order dated 31st March, 2016 relating to Assessment Year 2010-11 being Income Tax Appeal No,. 726 of 2017. We have today dismissed both the above questions of law raised by the Revenue in Income Tax Appeal No. 726 of 2017.

**4.** It is an agreed position between the parties that for the reasons indicated in our order passed today in Income Tax Appeal No. 726 of 2017, these two questions would not give rise to any substantial question of law.

**5.** Accordingly, both these questions are not entertained. The appeal is dismissed.

**(NITIN JAMDAR, J.)** **(M.S. SANKLECHA, J.)**