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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 891 OF 2016

Pr. Commissioner of Income Tax-16 ...Appellant
vs
Smt. Mallika M. Madhani ...Respondent.

.....

Mr Suresh Kumar for the Appellant.
Dr K. Shivram, Sr. Counsel a/w Ms Neelam Jadhav for the Respondent.

.....

CORAM : AKIL KURESHI &
B.P.COLABAWALLA, JJ.
JANUARY 07, 2019.

P.C. :

1. The Revenue appeals against the Judgment of I.T.A. Tribunal dated 8th April, 2015. The following question has been presented for our consideration which reads thus-

> "Whether on the facts and circumstances of the case the Hon. ITAT is justified in treating income of Rs.2,09,80,137/- earned by trading in shares as income chargeable under the head Capital gains and not as business income."

2. The issue pertains to the Assessee's assessment year 2007-08 and revolves around the Revenue's contention that receipt of the assessee out of sale of the shares should be taxed as her business income. The Tribunal in the impugned judgment confirmed the view of the CIT Appeals. By dismissing the Revenue's appeal, the Tribunal

noted that the Assessee's treatment of sale of shares resulting into capital gain has been consistently accepted in the preceding and succeeding assessment years.

3 In that view of the matter, we find no error in the view of the Tribunal. No question of law arises. Tax Appeal is dismissed.

(B.P.COLABAWALLA, J.) **(AKIL KURESHI, J.)**