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

INCOME TAX APPEAL NO.265 OF 2017

The Principal Commissioner of
Income Tax-3 .... Appellant

versus

M/s. Omega Investment & Properties Ltd. ... Respondent

…....

- Mr.A.R. Malhotra a/w Mr.N.A. Kazi, Advocate for Appellant.
- Mr.V.S. Hadade, Advocate for Respondent.

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.
DATE : 09th APRIL, 2019.

P.C. :

1. This Appeal is filed to challenge the judgment of Income Tax Appellate Tribunal. Following question is presented for our consideration;

> *"Whether on the facts and circumstances of the case and in law the Hon'ble Tribunal was right in upholding order of the CIT (A) allowing deduction under section 80IB (10) of the Income Tax Act of Rs.1,03,79,815/- in*

respect of profit derived from development of residential building by holding that assessee is covered by proviso to clause (a) and (b) of section 80 IB (10) without appreciating the fact that the project was approved by the Slum Rehabilitation Authority on 7.10.2002 which did not fall within the period of approval as per Notification No.2 of 2011?”

2. Learned Counsel for the revenue fairly pointed out that in case of assessee in the earlier assessment year on identical question in Income Tax Appeal No.159/15, was dismissed by this Court by an order dated 25/07/2017, in following terms;

“1. The present appeal pertains to assessment year 2009-2010.

2. Mr. Kotangle, learned counsel for the appellant submits that assessee was not entitled for deduction under Section 80IB(10) of the Income Tax Act, 1961 (for short 'the Act') in respect of redevelopment project, the same was not eligible for deduction in view of the board instructions under Section 119 of the Act. According to the learned counsel, the

Tribunal was not justified in overwriting the notification of the board under Section 119 of the Act.

3. Learned counsel for the respondent supports the order.

4. The Commissioner [Appeals] in his judgment has specifically observed that the project of the assessee is approved as slum rehabilitation project by slum rehabilitation authority of the State and the same has also been notified. The assessee has submitted the project and the plan dated 28/04/2004 and the same was approved by the Rehabilitation Authority on 04/06/2004, the same is filed on record. The Tribunal has also considered the said aspect, so also proviso to Section 80IB(10) of the Act and has correctly passed the order. The judgment of the Tribunal cannot be faulted with.

5. In view of the above facts and circumstances, no interference is called for. The Appeal is dismissed. No costs."

3. In the result, without recording separate reasons, this Appeal is also dismissed.

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