R.M. AMBERKAR
(Private Secretary)

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

INCOME TAX APPEAL NO. 618 OF 2017

Pr. Commissioner of Income Tax -2 .. Appellant

Versus

Dena Bank .. Respondent

……………….

- Mr. Suresh Kumar for the Appellant

……………….

CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : AUGUST 5, 2019.

P.C.:

1. This appeal is filed by the Revenue to challenge the judgment of the Income Tax Appellate Tribunal, Mumbai (**"the Tribunal"** for short) dated 16.3.2016.

2. Following questions are presented for our consideration:-

(i) On the facts and in the circumstances of the case and in law, the Tribunal erred in annulling the relevant order when the Department has filed before the High Court against the set-aside order of the Tribunal?

(ii) On the facts and in the circumstances of the case and in law, the Tribunal erred in holding that the provision of Section 115JB of the Income Tax Act, 1961 were not applicable to the

> assessee bank relying on the decision in the case of Union Bank of India in 49 SOT 32 (Mum)/2011 which has not been accepted by the Department and appeal on the issue has been filed before the Bombay High Court vide ITA No. 546 of 2012?"

3. The appeal arises out of the consequential assessments framed by the Assessing Officer pursuant to the order passed by the Commissioner under Section 263 of the Income Tax Act, 1961 (**"the Act"** for short). The central issue is of applicability of the MAT provisions under Section 115JB of the Act to the banking companies. This Court in case of **CIT-LTU Vs. Union Bank of India**[1] held that Section 115JB would not apply to the banking companies. In that view of the matter, this appeal is dismissed.

[S.J. KATHAWALLA, J.] **[AKIL KURESHI, J]**

1 Judgment dated 16.4.2019 in Income Tax Appeal No. 1196 of 2013 and connected appeals.