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

INCOME TAX APPEAL NO. 1992 OF 2017

The Commissioner of Income Tax (Exemptions) .. Appellant

v/s.

Shree Gajanan Maharaj Shikshan Prasarak Mandal .. Respondent

Mr. Sham Walve a/w. Mr. Pritesh Chatterjee for the Appellant.
Mr. Ravindra Poojary for the Respondent.

CORAM: UJJAL BHUYAN, &
MILIND N. JADHAV, JJ.

DATE : JANUARY 23, 2020.

P. C.:-

. Heard Mr.Sham Walve, learned standing counsel revenue for the appellant.

2. This appeal under Section 260A of the Income Tax Act, 1961 has been preferred by the revenue against the order dated 17.05.2016 passed by the Income Tax Appellate Tribunal, Pune Bench "A", Pune in ITA No.1442/PN/2014 for the assessment year 2009-10.

3. The appellant has proposed the following question as substantial question of law in this appeal :

> "Whether, on the facts and in the circumstances of the case and in law, Hon'ble Tribunal was justified in allowing the claim of depreciation of Rs.76,97,220/- when the assets on which depreciation was claimed were acquired out of application of income and allowing of depreciation would amount to double deduction?"

4. Mr. Walve, learned standing counsel fairly submits that the above question framed has been answered by the Supreme Court in ***Commissioner of Income Tax-II vs. Rajasthan & Gujarati Charitable Foundation, Poona,*** 402 ITR 441 against the revenue and in favour of the assessee.

5. In view of the above, the question proposed does not arise out of the order of the Tribunal.

6. Consequently appeal is dismissed. No cost.

(MILIND N. JADHAV, J.) **(UJJAL BHUYAN,J.)**