R.M. AMBERKAR
(Private Secretary)

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

INCOME TAX APPEAL NO. 1938 OF 2017

Pr. Commissioner of Income Tax -6 .. Appellant

Versus

Kamanwala Housing Construction Ltd .. Respondent

....

- Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the Appellant

....

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

DATE : JANUARY 29, 2020.

P.C.:

1. Heard Mr. Malhotra, learned standing counsel, revenue for the appellant.

2. This appeal under Section 260A of the Income Tax Act, 1961 (**"the Act"** for short) is preferred by the revenue against the order dated 15.2.2017 passed by the Income Tax Appellate Tribunal, Mumbai "A" Bench, Mumbai (**"Tribunal"** for short) in Income Tax Appeal Nos. 921/Mum/2016 and 1404/Mum/2016 for the assessment year 2011-12.

3. Following two questions have been proposed as substantial questions of law:-

(i) Whether on the facts and in circumstances of the case and in law, the Tribunal was right in deleting the disallowance u/S. 14A of the Act ignoring that the provisions of Section 14A of the Act apply even if no exempt income is actually earned or received during the year in any form whatsoever?

(ii) Whether on the facts and in circumstances of the case and in law, the Tribunal was right in deleting the disallowance u/S. 14A of the Act by ignoring the provisions of CBDT Circular No. 5/2014 dated 11.2.2014 wherein it has been clarified that Rule 8D r/w Section 14A provides for the disallowance of expenditure even where the assessee in particulars has not earned exempt income?

4. Mr. Malhotra fairly submits that this Court in Income Tax Appeal No. 1124 of 2017 (Pr. Commissioner of Income Tax-6 Vs. M/s. Kohinoor Project Pvt) decided on 27.1.2020 had answered the above two questions in favour of the assessee and against the revenue.

5. In view of the above, the appeal is dismissed.

[MILIND N. JADHAV, J.] **[UJJAL BHUYAN, J.]**

Ravindra M. Amberkar

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