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

In Appeal under Section 260A of the Income Tax Act, 1961

INCOME TAX APPEAL NO.638 OF 2018

Principal Commissioner of Income Tax-14, Mumbai .. Appellant

Vs.

Foods and Inns. Ltd. .. Respondent

Mr. Suresh Kumar for the Appellant.
Mr. Ajay R. Singh for the Respondent.

CORAM : DHIRAJ SINGH THAKUR &
VALMIKI SA MENEZES, J.J.

DATE : 22ND JULY, 2022.

P.C. :

1. This is an Income Tax Appeal filed under Section 260A of the Income Tax Act, 1961, against the order passed by the Income Tax Appellate Tribunal, Mumbai dated 7th June 2016 in Income Tax Appeal No.1262/Mum/2011, along with connected matters. The following two questions have been proposed in the present Appeal for our consideration :-

(i) Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal is correct in law in deleting disallowance of loss of foreign exchange by holding the same is not speculative loss but was allowable as business loss ?

(ii) Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal is correct in law in holding that

the amendment to Section 40(a)(ia) of the Act by Finance Act, 2010 w.e.f. 01.04.2010 is retrospective ?

2. However, learned counsel for the parties agree that question no.1 is covered by a judgment of this court in Income Tax Appeal No.1804 of 2017 dated 22nd January 2020 *(Principal Commissioner of Income Tax-14 Vs. Foods and Inns. Ltd.)* in the case of the assessee and that question of law figuring at sr.no.(ii) is also covered by the Apex Court's judgment in the case of *Commissioner of Income Tax Vs. Calcutta Export Company, (2018) 404 ITR 654 (SC).*

3. In that view of the matter, no substantial questions of law arise. The Appeal is dismissed.

[VALMIKI SA MENEZES, J.] **[DHIRAJ SINGH THAKUR, J.]**