IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1289 OF 2013
WITH
INCOME TAX APPEAL NO.1378 OF 2013
WITH
INCOME TAX APPEAL NO.1695 OF2013
WITH
INCOME TAX APPEAL NO.1481 OF 2013
WITH
INCOME TAX APPEAL NO.1403 OF 2013
WITH
INCOME TAX APPEAL NO.2004 OF 2013

The Commissioner of Income Tax,
Central-1, Mumbai ..Appellant

Versus

M/s Puravankara Projects Ltd ..Respondent

Mr.P. C. Chhotaray, *Advocates for the Appellant.*

Mr.Rajeev Waglay i/b DSR Legal, *Advocates for the Respondent.*

CORAM : B. P. COLABAWALLA, J &
M. M. SATHAYE, JJ.
DATE : SEPTEMBER 21, 2023

P.C.

In all the above Appeals, by order dated 9th April, 2015, the question of law framed by this Court was as under:-

> "Whether on the facts and in the circumstances of the case and in law, the Hon'ble Income Tax Appellate Tribunal was justified in directing the Assessing Officer to allow the claim of deduction u/s.80IB(10) made by the assessee

> on pro rata basis without appreciating the fact that the provisions of section 80IB(10) clearly mandate that the assessee can be either eligible or not eligible for claiming deduction and the provisions do not contemplate any proportionate deduction?"

2 When these Appeals are called out, it has been brought to our attention that the question of law as framed, is covered by a decision of this Court in the case of ***Principal Commissioner of Income Tax-4 V/s. Kumar Builders Consortium reported in [(2022) 447 ITR 44]***. The exact same question was raised in the case of Kumar Builders (supra) and answered against the Revenue and in favour of the Assessee. In these circumstances, and in light of the decision given in Kumar Builders (supra), we dismiss the above Appeals. However, there shall be no order as to costs.

3 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.] **[B. P. COLABAWALLA, J].**