

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

INCOME TAX APPEAL NO. 11 OF 2014

The Director of Income Tax-Exemption .. Appellant.
v/s.
M/s. Mumbai Education Trust .. Respondent.

Mr. A. R. Malhotra with Mr. N.A. Kazi, for the Appellant.
Dr. Shivram, Sr. Advocate with Mr. Rahul Hakani, for the Respondent.

**CORAM: M.S.SANKLECHA, &
A.K.MENON, JJ.
DATE : 3rd MAY, 2016.**

P.C:-

This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 21st March, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal) for the Assessment Year 2007-08.

2 The Revenue urges the following questions of law for our consideration:

“(a) Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in confirming the order of the CIT(A) to allow the claim of depreciation relying on the decision of this Court in the case of CIT v/s. Institute of Banking Personnel Services reported in 264 ITR 110 (Bom) ignoring the ratio of Hon'ble Supreme Court judgment in the case of Escorts Ltd. V/s. Union of India (199 ITR 43) wherein Hon'ble Supreme Court has held that double deduction cannot be presumed if the same is not specifically provided by law, in addition to normal deduction?”

(b) Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in confirming the order of the CIT(A) to allow to carry forward of deficit of earlier years relying on the decision of this Court in the case of CIT v/s. Institute of Banking Personnel Services reported in 264 ITR 110 (Bom) while the revenue did not file SLP against the case of CIT v/s. Institute of Banking Personnel Services reported in 264 ITR 110 (Bom) due to low tax effect?”.

3 We find that the impugned order of the Tribunal has dismissed the Revenue's appeal on both the issues namely – allowability of depreciation on capital assets acquired for the purposes of carrying out charitable activities and set off of deficit of earlier years against income of the current year. The impugned order in fact followed decision of this Court in CIT v/s. Institute of Banking Personnel Services reported in 264 ITR 110 while holding in favour of the Respondent-Assessee.

4 Mr. Malhotra, learned Counsel appearing for the Revenue very fairly states that the issue as raised by the Revenue stands concluded against Revenue by decision of this Court in Institute of Banking Personnel Services (supra).

5 In view of the above, the questions as framed do not give rise to any substantial question of law.

6 Accordingly, **Appeal dismissed.** No order as to costs.

(A.K.MENON,J.)

(M.S.SANKLECHA,J.)