

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

INCOME TAX APPEAL NO. 335 OF 2014

Commissioner of Income Tax-I,
Thane

.. Appellant

v/s.

M/s. Lanxess India Pvt. Ltd.

.. Respondent

Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the appellant
Mr. Atul Jasani for the respondent

**CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.**

DATED : 29th AUGUST, 2016.

PC.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 28th August, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2008-09.

2. The Revenue has urged the following substantial question of law :-

(i) Whether on the facts and circumstances of the case and in law, the Tribunal erred in law in directing the Assessing Officer to restrict the adjustments only in relation to the transactions with

the Associate Enterprise and not on the entire revenue of manufacturing segment without appreciating the fact that the assessee has selected Transactional Net Margin Method and applied the same at entity level and that if the overall margins are less than the arms length margin, the short fall must be on account of the Associate Enterprise transactions and not on pro-rata basis?

3. Mr. Suresh Kumar, learned Counsel appearing for the appellant Revenue very fairly states that the impugned order of the Tribunal decided the issue framed herein in favour of the respondent assessee by following its decision in *Thyssen Krupp Industries India Pvt. Ltd.* and in the case of *Tara Jewels Exports Pvt. Ltd.* Mr. Suresh Kumar, further points out that the Revenue had challenged both the above orders of the Tribunal before this Court being Income Tax Appeal No.2201 of 2013 (*Thyssen Krupp Industries India Pvt. Ltd.*) and Income Tax Appeal No.1814 of 2013 (*Tara Jewels Exports Pvt. Ltd.*). By order dated 2nd December, 2015 in Income Tax Appeal No.2201 of 2013 and order dated 5th October, 2015 in Income Tax Appeal No.1814 of 2013, the Revenue's appeals were dismissed. As the impugned order of the Tribunal follows its orders in *Thyssen Krupp Industries (I) Pvt. Ltd.*

(supra) and Tara Jewels Exports Pvt. Ltd. (supra) and appeals against them were dismissed by the Court, this appeal must also meet the same fate. No distinguishing features in this case to the above two cases relied upon by the impugned order has been shown to us.

4. Therefore, the question as framed does not give rise to any substantial question of law. Thus, not entertained.

5. Accordingly, the Appeal is dismissed. No order as to costs.

(S.C. GUPTE, J.)

(M.S. SANKLECHA, J.)