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

INCOME TAX APPEAL NO.1359 OF 2013

Director of Income Tax(IT)-I ..Appellant
-***Versus***-
M/s. Reuters Television Ltd. ..Respondent

....

Mr. Tejveer Singh for the Appellant.
Mr. Atul K. Jasani a/w P. C. Tripathi for the Respondent.

....

CORAM: S. C. DHARMADHIKARI AND
A. K. MENON, JJ.

DATE :- 8th APRIL, 2015.

P.C.:

This Appeal of the Revenue challenges the order dated 30th October, 2012 of the Income Tax Appellate Tribunal, Bench at Mumbai. The assessment year is 2001-02. Mr. Tejveer Singh, the learned counsel, appearing on behalf of the revenue submits that all the three questions as proposed at page 4 of the paper book are substantial questions of law. They read as under:-

> “(a) Whether on the facts and in the circumstances of the case and in law, the ITAT was correct in setting aside issue of treatment of the locational special services under the category of 'fees for technical services' by the Assessing Officer even though the assessee failed to furnish the supporting documents before the Assessing Officer as well

as CIT(A) and ITAT?

(b) Whether on the facts and in the circumstances of the case and in law, the ITAT was correct in deleting the interest charged under section 234-B of the Income Tax Act, 1961?

(c) Whether on the facts and circumstances of the case and in law, the ITAT was correct in giving relief to the assessee on the issue of chargeability of interest under section 234B though the assessee has failed to pay advance-tax and hence the Assessing Officer was right in charging interest under section 234B & 234C of the Income Tax Act, 1961?"

2] In so far as question no.(a) is concerned, Mr. Tejveer Singh could not dispute that the discussion in the Tribunal's order is only with a view to set aside the order of the Commissioner of Income Tax (Appeals) and remit the issue to his file for deciding the same afresh after considering the relevant material. We do not know how the revenue is prejudiced. The Assessing Officer is directed to decide the issue in accordance with law. The direction in 6.4 of the Tribunal's order, therefore, does not raise any substantial question of law.

3] In so far as the questions no.(b) and (c), it is conceded that the Division Bench judgment of this Court in the case of ***Director of Income Tax (International Taxation) V/s. NGC Network Asia LIC (2009) 313***

ITR 187 has been followed by the Tribunal in deciding the issue against the revenue and in favour of the assessee. Thus, all the three questions are neither substantial questions of law, in the sense, two of them stand covered and answered against the revenue. If the revenue is aggrieved by the Division Bench judgment of this Court and has approached the higher Court that does not mean that it should file Appeal and raising same questions which are dealt with. Filing of such Appeals by the revenue is wasting precious judicial time of this Court which is nothing but unnecessary and frivolous litigation.

4] Similarly, in so far as question no.(a), the Tribunal has done nothing but remanded the issue for a fresh consideration to the Commissioner of Income Tax (Appeals), then, all the more bringing in such Appeals by the revenue is nothing but abuse of the process of this Court. As a result of the above discussion and while dismissing this Appeal, we impose costs quantified at Rs.25,000/- on the revenue which shall be remitted and paid to the assessee before us within four weeks from today.

(A. K. MENON, J.) **(S. C. DHARMADHIKARI, J.)**

wadhwa