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

INCOME TAX APPEAL NO. 1667 OF 2013

Director of Income Tax (IT) – I … Appellant

v/s

Satellite Television Asian Region Ltd.
(Star Ltd.). … Respondent

Mr.Tejveer Singh for the appellant.

Mr.Porus Kaka, senior counsel along with Mr.Atul Jasani for the respondent.

CORAM: M.S. SANKLECHA &
N.M. JAMDAR, JJ.

DATED : 16TH JUNE, 2015

P.C.:

This appeal by the revenue challenges the order dated 23 January 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). By the impugned order dated 23 January 2013 the revenue's appeal against the order of the Commissioner of Income Tax (Appeals) deleting the penalty imposed upon the respondent assessee under Section 271(1)(c) of the Income Tax Act, 1961 (the Act), was dismissed for the Assessment Year 1999-2000.

2 The revenue has proposed the following question for our consideration :-

"Whether on the facts and in the circumstances of the case and in law the Tribunal has erred in holding that penalty under Section 271(1)(c) of the Act is not imposable ?"

3 The Assessing officer imposed a penalty upon the appellant holding that M/s.SAS BV (IGN BV) is its conduit and the advertisement-sales income returned by M/s.SAS BV (IGN BV) is taxable in the hands of the appellant. In appeal, the Commissioner of Income Tax (Appeals) deleted the penalty although it confirmed that the income is taxable in the hands of the appellant. Being aggrieved, both the revenue and the assessee filed appeals to the Tribunal.

4 The Tribunal by the impugned order not only dismissed the revenue's appeal with regard to the non-imposition of penalty but also allowed the respondent assessee's appeal on merits for the Assessment Year 1999-2000. This was by following its decision dated 21 May 2010 in the case of M/s.International Global Networks BV i.e. M/s.SAS BV (IGBN BV) for the Assessment Years 1998-99 and 1999-2000. By the order dated 21 May 2010, the Tribunal *inter-alia* held that M/s.SAS BV (IGN BV) for the Assessment Year 1998-99 and 1999-2000 is not a conduit for the appellant and its income is taxable in its hands. This has been accepted by the revenue and no appeal therefrom has been filed on merits on the issue. It is pertinent to note that for the subsequent

assessment years i.e. Assessment Years 2000-01 and 2002-03 the revenue had carried the order of the Tribunal in the case of M/s.SAS BV (IGN BV) on identical issue with regard to the merits of the controversy to this Court. By an order dated 13 March 2013 this Court dismissed the revenue's appeal being Income Tax Appeal Nos.2461 and 2462 of 2011 for Assessment Years 2000-01 and 2002-03. Thus, on merits, it is concluded that the income on account of advertisement-sales is taxable in the hands of M/s.SAS BV (IGN BV). Therefore, no occasion to impose any penalty upon the appellant under Section 271(1)(c) of the Act can arise.

5 Accordingly, no substantial question of law arises for our consideration.

6 Appeal dismissed. No order as to costs.

(N. M. JAMDAR, J.) ***(M.S. SANKLECHA, J.)***