Sbw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1129 OF 2014
WITH
INCOME TAX APPEAL NO. 788 OF 2014

Commissioner of Income Tax, TDS, Mumbai ..Appellant
Versus
M/s. Jet Airways (India)Ltd. ..Respondent

....
Mr. P. C. Chhotaray for the Appellant.
Mr. P.J. Pardiwala, Senior Advocate, i/b. Atul Jasani for the Respondent.
....

CORAM: M. S. SANKLECHA &
A. K. MENON, JJ.

DATE : 4th JANUARY, 2017

P.C.

1. Both these appeals arise from the common order dated 24th October, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Years 2008-09 and 2009-2010.

2. Both these appeals raise the following question of law for our consideration :-

> *"Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in upholding the order of the Commissioner of Income Tax (Appeals) (CIT(A)) and holding that the assessee was not liable to deduct tax at source from the*

payment of Passenger Service Fee (PSF) made by it to the airport operators?

3. It is an agreed position between the parties that questions raised herein is identical to one of the questions raised by the Revenue in Income Tax Appeal no.1181 of 2014 (CIT v/s. M/s. Jet Airways). The only distinction in these two appeals on facts from that arising in Income Tax Appeal no.1181 of 2014 is that the Revenue is seeking to invoke Section 201(1) and 201(1A) of the Act in this case only on the facilitation component of the PSF while in the earlier case the demand for TDS related to both facilitation and security component of the PSF. It is an agreed position between the parties that the order passed by us today in Income Tax Appeal No.1181 of 2014 in CIT v/s. M/s. Jet Airways would consequently apply to the facts of the present case. Therefore for the reasons indicated in our order passed today in Appeal no.1181 of 2014, the question of law as proposed in these two appeals do not give rise to any substantial question of law. Thus not entertained.

4. Appeals are dismissed. No order as to costs.

(A. K. MENON, J.) **(M. S. SANKLECHA, J.)**

Wadhwa