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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 220 OF 2015

The Commissioner of Income Tax -7 … Appellant

vs.

M/s. Tata Teleservices (Maharashtra) Ltd. … Respondents

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Ms. S. V. Bharucha for the Appellant.
Mr. Jas Sanghvi i/b. PDS Legal for the Respondent.

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CORAM : A.S. OKA & A.K. MENON, JJ.

DATE : 31st OCTOBER, 2017

P. C.

1. Heard learned Counsel appearing for the appellant. Respondent -assessee filed return for the Assessment Year 2005-06 declaring loss of Rs. 5,27,10,59,930/-. An order of the assessment was made by reducing the loss to Rs.5,05,47,18,630/-. On 3rd December, 2008, an order was passed by the Commissioner of Income Tax by exercising power under Section 263 of Income Tax Act, 1961. A fresh assessment order was accordingly passed under Section 143(3) read with Section 263 of the said Act.

2. The respondent assessee preferred an appeal before the Appellate Tribunal against the said order dated 3rd December, 2008. By judgment and order dated 11th February, 2011 the appeal preferred by the respondent-

assessee against the order dated 3rd ecember, 2008 passed by the Commissioner was allowed. In the meanwhile, a fresh Assessment order was passed on 29th December, 2009. This order was challenged before the CIT (Appeals) by the Assessee. The said Appeal was allowed by order dated 20th December, 2011 on the basis of the aforesaid order dated 11th February, 2011 passed by the Appellate Tribunal. Being aggrieved by the said order of CIT (Appeals) on 20th December, 2011, the appellant assessee preferred an appeal before the Appellate Tribunal which has been dismissed by the Tribunal by the order impugned in this Appeal.

3. Today, learned Counsel appearing for the appellant pointed out that against the judgment and order dated 11th February, 2011 passed by the Appellate Tribunal, the appellant had preferred Income Tax Appeal No. 272/2012. The said appeal has been dismissed the by judgment and order dated 17th June, 2014 passed by a Division Bench of this Court. Thus the order dated 11th February, 2011 passed by the Appellate Tribunal has become final. As the said order has become final, no fault can be found with the impugned order by which the appeal preferred by the appellant was dismissed by the Appellate Tribunal.

4. Hence, no substantial question of law arises. There is no merit in this appeal. Accordingly, the appeal is disposed of.

(A.K. MENON, J) **(A.S. OKA, J)**