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

INCOME TAX APPEAL NO. 1407 OF 2016
WITH
INCOME TAX APPEAL NO. 1408 OF 2016

The Commissioner of Income Tax,(TDS)-2 .. Appellant

v/s.

Zoom Entertainment Network Ltd. .. Respondent

Mr. P.C. Chhotaray for the appellant
Mr. Porus Kaka, Senior Counsel a/w Mr. Divesh Chawla I/b Mr. Atul Jasani for the respondent

CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.

DATED : 3rd DECEMBER, 2018.

P.C.

1. These Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenge the common order dated 27th July, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order relates to Assessment Years 2008-09 and 2009-10.

2. The Revenue has urged the following re-framed question of law for our consideration :-

(i) Whether on the facts and in the circumstances of the case

and in law, the Tribunal was right in holding that the placement fees / carriage fees paid to cable operators / MSO / DTH Operators are payments for work contract covered u/s 194C and not fees for technical service u/s 194J, without appreciating that the services received by the assessee are technical in nature ?

(ii) Whether on the facts and circumstances of the case and in law, the Tribunal is correct in holding that the payment for subtitling and editing charges are payments for work contract covered u/s 194C and not fees for technical services u/s 194J, without appreciating that the services received by assessee are technical in nature?

3. ***Regarding question no.(i) :-***

(a) The impugned order of the Tribunal dismissed the Revenue's appeal by following the decision of its co-ordinate bench in the case of Asstt. Commissioner of Income Tax Vs. UTV Entertainment, rendered on 29th October, 2014. Being aggrieved the Revenue had filed an appeal to this Court from the aforesaid order and the Revenue's appeal being Income Tax Appeal No.525 of 15 was dismissed by this Court on 10th October, 2017 as not giving rise to any substantial question of law.

(b) In the above view, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

4. ***Regarding question no.(ii) :-*** We note that this question does not arise from the order of the Tribunal. Therefore, no occasion to consider the same arises. Thus, not entertained.

5. Accordingly, both the appeals are dismissed. No order as to costs.

(M.S. SANKLECHA, J.) **(AKIL KURESHI, J.)**