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

NOTICE OF MOTION NO. 1933 OF 2017
IN
INCOME TAX APPEAL NO. 2151 OF 2013

Vodafone India Services Pvt. Ltd. .. Applicant / Appellant

v/s.

The Deputy Commissioner of Income Tax-3 (3)(2) .. Respondent

Mr. F.V. Devitre, Senior Counsel a/w Mr. Atul Jasani for the applicant / orig. appellant
Mr. A.R. Malhotra a/w Ms. Padma Divakar for the respondent

CORAM : M.S. SANKLECHA &
RIYAZ I. CHAGLA J.J.

DATED : 12th JANUARY, 2018.

P.C.

1. This motion has been taken out in an appeal relating to Assessment Year 2007-08.

2. This notice of motion has been taken out pursuant to liberty granted by order dated 8th October, 2015 of this Court in Income Tax Appeal No.82 of 2015 while disposing of applicant's appeal relating to Assessment Year 2008-09. This Court while passing the order dated 8th October, 2015 granted liberty as under :-

"224. As far as the valuation of ITES is concerned, the Tribunal

has followed its earlier order and for the assessment year 2007-08. Both sides conceded that a substantive appeal in that regard is pending against the same and in this Court. We would, therefore, prefer not to express any opinion on the rival contentions in that regard. It would be thus open for the parties to raise them in the pending appeal as also in an appropriate case. We keep the controversy open. We also grant liberty to file appropriate applications in the pending appeal for A.Y. 2007-08 so as to enable all parties to raise similar contentions on the issue for A.Y. 2008-09."

3. It is in view of the above liberty that the present motion has been taken out seeking permission to raise questions nos. XXXV to XXXIV of the questions of law raised in Appeal No.82 of 2015 for Assessment Year 2008-09 along with the hearing of the present appeal relating to Assessment Year 2007-08.

4. In view of the directions of this Court by order dated 8th October, 2015, the Revenue does not object to this notice of motion being allowed. However, the only submission urged on behalf of the Revenue is that this appeal for assessment year 2007-08 be taken up and decided first before deciding the questions in Income Tax Appeal No.82 of 2015 relating to Assessment Year 2008-09.

5. At this stage, we do not decide upon the above submission of Mr. Malhotra, learned Counsel for the Revenue. It would be appropriate for the Court hearing this appeal along with the questions raised in Income Tax Appeal No.82 of 2015 which are left open, to decide the manner and / or sequence in which the two appeals are to be heard.

6. The motion is allowed in terms of prayer clauses (a), (b) and (c). Needless to state that the appellants are restricted to the questions which have been allowed to be urged by virtue of this notice of motion.

(RIYAZ I. CHAGLA, J.) **(M.S. SANKLECHA, J.)**