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

INCOME TAX APPEAL NO.1384 OF 2016
WITH
INCOME TAX APPEAL NO.1437 OF 2016
WITH
INCOME TAX APPEAL NO.1446 OF 2016
WITH
INCOME TAX APPEAL NO.1448 OF 2016

Commissioner of Income Tax-TDS-2 … Appellant

V/s.

UTV News Ltd. … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.R.Murlidhar with Mr.B.G.Yewale i/by M/s Rajesh Shah & Co. for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : JANUARY 18, 2019.

P.C.:-

1. These four appeals challenge the common order dated 16th October, 2015 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order relates to Assessment Year 2008-09.

2. The Revenue urges the following common questions of law for our consideration:

> "1. Whether on the facts and in the circumstances of the case and in law, the ITAT is correct 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 services u/s 194J, without appreciating that the services received by Assessee are technical in nature?
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> 2. Whether on the facts and in the circumstances of the case and in law, the ITAT was correct in accepting the claim of the Assessee that tax was deductible under section 194C on placement fees/carriage fees by treating it as contract work by resorting to interpretative reasoning and not under section 194J of the I.T. Act without appreciating the definition of fees for technical services given in section 194J and without appreciating that as per the settled principle of jurisprudence, this exercise is required only when the law is unclear?
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> 3. Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in rejecting the order of the Assessing Officer by holding that the Assessee is not in default u/s 201(1) in respect of the amount of tax which has not been deducted from the payments made under the required sections and that the Assessee is not liable for levy of interest under section 201(1A)?"

3. Mr.Suresh Kumar, learned counsel for the Revenue very fairly states that the issues raised herein stand concluded in favour of the respondent and against the appellant-revenue by the

decision of this Court in case of **Commissioner of Income Tax, TDS-2, Mumbai Vs. UTV Entertainment Television Ltd.**[1] In view of the fact that the issues stand concluded by the decision of this Court, the questions as proposed do not give rise to any substantial question of law. Thus, not entertained.

4. Accordingly, the tax appeals are dismissed. No order as to costs.

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

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1 (2017) 88 taxmann.com 214(Bombay)