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

INCOME TAX APPEAL NO.1807 OF 2016

Pr. Commissioner of Income Tax
Central-3, Mumbai : Appellant.
versus
KSS Limited (Formerly known as
Sera Sera Productions Ltd. : Respondent.

....

Mr.N C Mohanty for the Appellant.
Mr. Satish Mody a/w Ms. Aasifa Khan for the Respondent.

....

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

DATE : FEBRUARY 27, 2019.

P.C.:

1 The Revenue has filed this Appeal against the judgment and order of the Income Tax Appellate.

2 The following questions were presented before us for our consideration :=-

> "(i) Whether on the facts and in the circumstances of the case and in Law, the Hon'nble ITAT was correct in holding that there was no international transaction between the assessee company and its AE on account of back to back agreements between the Assessee company and its AE and in turn between its AE and a 3rd party M/s. Citi Gate Trade FZE, even though the agreements

were made for procurement of film rights and payment of advance for the same, which falls within the definition of International Taxation in the Explanation given in SEction 92B of the I T Act, 1961?

(ii) Whether on the facts and in the circumstances of the case and in Law, the Hon'nble ITAT was correct in holding that the provisions of Chapter - X were not attracted even though the assessee has interest bearing borrowed funds in its books and had given advance tgo AE, and further that foreign exchange gain or loss was likely to arise in the transaction to the assessee company, since advance was given in foreign currency, which would have a bearing on the profits, income, losses and assets of the assessee company?"

3 It is an undisputed fact that the Tribunal in its impugned judgment has referred to and relied upon its earlier judgment in case of this very assessee involving identical issue. We notice that such a judgment of the Tribunal was carried in Appeal being Income Tax Appeal No.476 of 2016 filed by the Revenue. The said Appeal was dismissed by this Court the order dated 26th November 2018.

4 Under the circumstances, without separately recording the reasons, this Appeal is also dismissed.

[M.S.SANKLECHA,J.] **[AKIL KURESHI, J]**