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

INCOME TAX APPEAL NO. 1545 OF 2017

Pr.Commissioner of Income-Tax –16 .. Appellant

v/s.

Dish TV India Ltd. .. Respondent

....

Mr. Ashok Kotangle a/w. Prabhakar Ranshur and Sakshi Aundhekar for the Appellant.

Mr. Jay Nilesh Bhansali for the Respondent.

....

CORAM: UJJAL BHUYAN &
MILIND N. JADHAV, JJ.

DATE : FEBRUARY 11, 2020

P. C :-

1. Heard Mr. Kotangle, learned standing counsel revenue for the appellant and Mr. Bhansali, learned counsel for the respondent-assessee.

2. This appeal under Section 260A of the Income Tax Act, 1961 (**“the Act”** for short) has been preferred by the revenue against the order dated 20.12.2016 passed by the Income Tax Appellate Tribunal, “D” Bench, Mumbai (**“Tribunal”** for short) in Income Tax Appeal No. 2067/Mum/2015 for the Assessment Year 2009-10.

3. Though 4 questions were formulated by the appellant as substantial questions of law, Mr.Kotangle submits that the following questions correctly reflect the controversy in question :

(a) Whether on the facts and in the circumstances of the case and in law, Tribunal is justified in deleting the disallowance under Section 14A of the Income Tax Act, 1961 ignoring the fact that investments in group companies will also yield exempt income which will attract disallowance under Section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962 ?

(b) Whether on the facts and in the circumstances of the case and in law, Tribunal is justified in deleting the disallowance under Section 14A of the Income Tax Act, 1961 without appreciating that it is not the object for which the investment was made, but the quality of income, tax-exempt or otherwise, that arises from the investment, needs to be considered for the purpose of section 14A of the Income Tax Act, 1961?

4. On a query by the Court Mr.Kotangle, learned counsel for the appellant submits that the above two questions have been decided by the Supreme Court against the revenue and in favour of the assessee in *CIT v/s. Essar Teleholdings Ltd.*, 401 ITR 445. That apart, on identical issue Delhi High Court upheld the order passed by Tribunal that in the absence of any exempt income, disallowance under Section 14-A of the Act was not permissible. A Special Leave Petition filed by the revenue against the said decision has been dismissed by the Supreme Court in *Principal Commissioner of Income-Tax v/s. Oil Industry*

Development Board [2019] 103 taxmann.com 326(SC).

5. In view of above, we find no merit in the appeal. Accordingly, appeal is dismissed. However, there shall be no order as to costs.

(MILIND N. JADHAV, J.) **(UJJAL BHUYAN, J.)**