DDR

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

INCOME TAX APPEAL NO. 741 OF 2017

Pr. Commissioner of Income Tax-14, Mumbai ..Appellant
vs.
M/s. Idea Cellular Limited ..Respondent

………..

Mr. Suresh Kumar for the appellant.
Mr. Jehangir Mistri, Senior Counsel a/w. Mr. Atul Jasani for respondent.

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CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 13 JANUARY 2020

P.C.:-

Heard learned counsel for the parties.

2. Leave to amend the figure mentioned in the substantial question of law (a). Amendment to be carried out forthwith. Re-verification is dispensed with.

3. The Appellant – Revenue has challenged the order dated 27 May 2016 passed by Income Tax Appellate Tribunal in Income Tax Appeal Nos.4445/Mum/2013 and 4418/Mum/2013.

4. The following questions of law have been framed as substantial questions of law in this Appeal which pertains to Assessment Year 2007-2008 :-

> *"a) Whether, on the facts and circumstances of the case and in law, the Hon'ble Tribunal justified in holding that revenue share of license fees of Rs.2,77,77,90,896/- is a revenue expenditure allowable as deduction under Section 37(1) of the Income Tax Act, 1961 ?*
>
> *b) Whether, on the facts and circumstances of the case and in law, the Hon'ble Tribunal justified in holding that addition made on account of disallowance of interest expenditure towards interest free loan to the subsidiary ?"*

5. The order passed in the Respondent – Assessee's own case for the Assessment Year 2006-07 is placed on record wherein the Court observed as under :-

> *"3. We notice that the Revenue has raised two more questions which are as followes :-*
>
> *(i) Whether on the facts and circumstances of the case and in law, the Tribunal justified in holding that revenue share of licence fees of Rs.1,42,30,76,399/- is a revenue expenditure allowable as deduction u/S. 37(1) of the I.T. Act, 1961 ?*
>
> *(ii) Whether on the facts and circumstances of the case and in law, the Tribunal justified in holding that addition made on account of disallowance of interest expenditure towards interest free loan to the subsidiary ?"*

> *4. Question No.(i) is covered against the Revenue by order dated 11.4.2016 passed by this Court in Income Tax Appeal No. 1551 of 2013 involving this very assessee. Without recording separate reasons, therefore, this question is not considered.*
>
> *5. Question No.(ii) is covered by the virtue of the decision of the Supreme Court in the case of S.A. Builders Ltd Vs. CIT (Appeals), Chandigarh. Hence, this question is also not entertained."*

6. Though the Appeal was admitted on a different question of law, the questions of law raised in this Appeal have been considered and held against the Appellant – Revenue following the decision mentioned in the above quoted passage.

7. In these circumstances, there is no substantial question of law in this Appeal. The Appeal is accordingly disposed of.

(M.S.KARNIK, J.) **(NITIN JAMDAR, J.)**

Diksha Rane Digitally signed by Diksha Rane Date: 2020.01.15 17:21:56 +0530