



S.R.JOSHI

itxa-1745-1746-2016.odt

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

INCOME TAX APPEAL NO. 1745 OF 2016
WITH
INCOME TAX APPEAL NO. 1746 OF 2016

The Pr. Commissioner of Income Tax-1 .. Appellant.
v/s.
Tata Communications Ltd., .. Respondent.

Mr. Suresh Kumar, for the Appellant in both the Appeals.
Mr. J. D. Mistri, Sr. Advocate with Mr. Anil Wani and Ms. Supriya Devergudi, i/b. ANS Law Associates, for the Respondent in both the Appeals.

**CORAM: AKIL KURESHI &
M.S.SANKLECHA, JJ.**
DATE : 22nd JANUARY, 2019.

P.C:-

Since both these Appeals arise out of a common judgment of the Tribunal, we may record the facts from the Income Tax Appeal No.1745 of 2016.

2 The Revenue is in Appeal against the Judgment of the Income Tax Appellate Tribunal (in short “the Tribunal”), raising the following common question for our consideration:-

“ Whether on the facts and in the circumstance of the case and in law, the Tribunal was justified in directing the AO to give the credit of TDS on the basis of evidences produced for deduction of tax at source where the deductor has not issued TDS certificates or had failed to uphold the correct details in Form 26AS?”

3 Upon perusal of the impugned judgment of the Tribunal with the assistance of the learned Counsel for the parties, we notice that the Revenue had objected to the assessee's claim of Tax Deducted at Source (for short "TDS") from the payments made to the assessee on the ground that, there was mis-match in the TDS certificate issued by the deductors and the aggregate amounts arrived at as appearing in form 26-A. The Tribunal referred to and relied on the decision of this Court in case of *Yashpal Sahni 293 ITR 539* and observed that, in case, the deductor has failed to uphold the correct details in form 26-A the benefit should be given to the assessee on the basis of evidence produced before the Department. Resultantly, the Tribunal only directed the Assessing Officer to verify the correct facts and give credit of TDS to the assessee. No question of law arises.

4 Accordingly, both the **Appeals** are **dismissed**.

(M.S.SANKLECHA,J.)

(AKIL KURESHI,J.)