

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "SMC", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER

ITA No. 2714/MUM/2015  
(Assessment Year : 2008-09)

The ITO -14(3)(3),  
Mumbai.

... Appellant

Vs.

M/s. Satellite Cable TV Network P. Ltd.  
1/156, Gorodia Shopping Centre,  
Garodia Nagar, Ghatkopar(E),  
Mumbai -77  
PAN:AAKCS 0785R

.... Respondent

Appellant by : Shri Santosh Mankoskar  
Respondent by : Shri K. Kotresh

Date of hearing : 30/06/2016  
Date of pronouncement : 30/06/2016

**ORDER**

The captioned appeal filed by the Revenue pertaining to assessment year 2008-09 is directed against an order passed by CIT(A)-22, Mumbai dated 04/02/2015, which in turn arises out of an order passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 01/03/2013.

2. In this appeal, the only issue is with regard to the action of the Assessing Officer in treating an amount received by the assessee of Rs.43,17,729/- from M/s. Wire & Wireless Network Pvt. Ltd. as deemed

dividend within the meaning of section 2(22)(e) of the Act. The Assessing Officer noted that the share holding pattern in the assessee company and M/s. Wire & Wireless Network Pvt. Ltd. reveal that there was substantial common shareholding and thus, the provisions of section 2(22)(e) of the Act were attracted. The CIT(A) however, noticed that the assessee company was not shareholder in M/s. Wire & Wireless Network Pvt. Ltd. from whom the impugned sum was received. According to the CIT(A), the provisions of section 2(22)(e) would be attracted in the hands of the respective shareholders only and not the assessee company as it is not a share holder in M/s. Wire & Wireless Network Pvt. Ltd. The CIT(A) accordingly, directed the Assessing Officer to delete the addition by following the judgement of the Hon'ble Bombay High Court in the case of CIT vs. Universal Medicare Pvt. Ltd. 324 ITR 263 (Bom). Against such a decision, Revenue is in appeal before the Tribunal.

3. Before me, it was a common point between the parties that similar issue had come up before the Tribunal in the assessee's own case for assessment year 2009-10, wherein vide its order in ITA No.4007/Mum/2013 dated 22/5/2015, similar addition made by the Assessing Officer was deleted following the judgment of the Hon'ble Bombay High Court in the case of Universal Medicare Ltd. (supra). It was also a common point between the parties that the decision of the Tribunal dated 22/5/2015(surpa) continues to hold the field and the fact-situation in the instant year is identical to that considered by the Tribunal in assessment year 2009-10.

4. In view of the aforesaid factual matrix, I find no reason to interfere with the decision of the CIT(A), which is in tune with the earlier precedent in assessee's own case as well as the judgement of the Hon'ble Bombay High Court in the case of Universal Medicare Pvt. Ltd.(supra). Thus, appeal of the Revenue is dismissed.

5. In the result, appeal of the Revenue is dismissed.

The above decision was pronounced in the open court at the conclusion of hearing in the presence of both the parties on 30/06/2016.

Sd/-

(G.S. PANNU)  
ACCOUNTANT MEMBER

Mumbai, Dated 30/06/2016

Vm, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai