

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL NO. 749 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE AKIL KURESHI

With

HONOURABLE MR.JUSTICE J.B.PARDIWALA

and

HONOURABLE MR.JUSTICE A.J. SHASTRI

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

COMMISSIONER OF INCOME TAX IV....Appellant(s)

Versus

VODAFONE ESSAR GUJARAT LTD....Opponent(s)

Appearance:

MR NITIN K MEHTA, ADVOCATE for the Appellant(s) No. 1

MR B S SOPARKAR, ADVOCATE for the Opponent(s) No. 1

CORAM: **HONOURABLE MR.JUSTICE AKIL KURESHI**

and

HONOURABLE MR.JUSTICE J.B.PARDIWALA

and
HONOURABLE MR.JUSTICE A.J. SHASTRI

Date : 04/08/2017

CAV JUDGMENT

(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

1. This reference to the larger Bench was made by the Division Bench by an order dated 23.8.2016.
2. Brief facts leading to the reference are as under. The respondent assessee is a company registered under the Companies Act. For the assessment year 2003-2004, the assessee had filed return of income declaring nil income. The Assessing Officer framed the order of assessment on 27.03.2006, after which, notice under section 148 of the Income Tax Act [the Act' for short] was issued on 06.02.2007 to reopen the assessment. The main point of divergence in such reassessment between the Revenue and assessee was the provision of Rs.6.28 crores (rounded off) made by the assessee for bad and doubtful debts. The Assessing Officer added such sum for computing the book profit of the assessee for the purpose of Minimum Alternative Tax ['MAT' for short] liability under section 115JB of the Act. The assessee carried the matter in appeal. The Commissioner (Appeals) allowed the appeal, upon which, the Revenue approached the Tribunal. The

Tribunal, by the judgement which is challenged in this Tax Appeal, observed that “the assessee had made provision for bad and doubtful debts and the same has been charged to the Profit and Loss Account for the year ended 31st March 2003. In the Balance Sheet as on 31st March 2003 of the assessee, it can be seen that the provision of bad and doubtful debts has been reduced from the gross debtors and the net sundry debtors are shown as asset in the balance sheet. Thus, the provision for bad and doubtful debts cannot be termed as a provision for liability but is in the nature of diminution in the value of asset. In view of aforesaid facts, we are of the view that the facts in the present case are identical to that of the case of Yokogwa India Ltd. (supra)”.

3. The Revenue's appeal against the said judgement of the Tribunal was admitted for considering the following substantial question of law:

“Whether the Appellate Tribunal is right in law and on facts in deleting the addition of Rs.6,28,14,653/- being provision for bad and doubtful debts to the book profit for computation of MAT liability even when such adjustment was provided for by inserting clause(i) to Explanation (1) to Section 115JB w.e.f. 01.04.2001?”

4. When the appeal was taken up for hearing, two judgements

were cited before the Court. Revenue relied on the decision of Division Bench in case of **Commissioner of Income Tax-I v. Deepak Nitrite Limited** (Tax Appeal No.1918/2009, order dated 17.8.2011) taking the view that after the insertion of clause (g) to explanation 1 to section 115JA by the Finance Act, 2009, with effect from 01.04.1998, the ratio laid down by the Supreme Court in the judgement in case of **Commissioner of Income Tax v. HCL Comnet Systems and Services Ltd.** reported in (2008) 305 ITR 409(SC), would not apply in cases where the assessee had made the provision for doubtful debts for diminution in the value of any asset. On the other hand, the assessee relied on the decision of this Court in case of **Commissioner of Income Tax-I v. Indian Petrochemicals Corporation Ltd.** [Tax Appeal No. 1773/2008 and connected appeals, order dated 19.07.2016] in which the Court relying on the judgments of Karnataka High Court in case of **Commissioner of Income Tax vs. Yokogawa India Ltd.** reported in [2012] 17 taxmann.com 15 (Kar.) and **Commissioner of Income Tax vs. Kirloskar Systems Ltd.** reported in [2013] 40 taxmann.com 124 (Karnataka), rejected the Revenue's appeal involving the question of adding back the provision for doubtful debt in terms of section 115JB of the Act. The Court noticed that decision in case of **Deepak Nitrite Limited**(supra) was not brought

to the notice of the High Court in case of **Indian Petrochemicals Corporation Ltd.** (supra). On the other hand, counsel for the assessee argued that the decision of Supreme Court in case of **Vijaya Bank v. Commissioner of Income-tax and another** reported in (2010) 323 ITR 166 (SC) was not cited before the Court in case of **Deepak Nitrite Limited**(supra). Considering such factors, reference was made to the larger Bench for consideration of the following question:

“Whether in view of decision of the Supreme Court in case of Vijaya Bank (supra), judgement in case of Deepak Nitrite Limited(supra) was not correctly decided and, therefore, later judgement in case of Indian Petrochemicals Corporation Ltd. (supra) lays down the correct law?”

5. We have heard the learned counsel for the parties at length who have also cited several authorities. We would weave their contentions and relied upon authorities, in our discussion on the controversy at hand without separately recording the contentions and referred decisions.
6. Chapter XXII-B of the Act pertains to special provisions relating to certain companies and contains provisions for collection of Minimum Alternative Tax. Sections 115JA and 115JB contain somewhat similar provisions but were applied during different periods. Since in our case what is

applicable is section 115JB, we may refer to the said section. Under sub-section (1) of section 115JB, notwithstanding anything contained in any other provision of the Act, in case of a company where the tax payable on the total income is less than the prescribed percentage of its book profit, the book profit would be deemed to be total income of the assessee and the assessee would pay tax at such prescribed rate on such income. Sub-section (2) of section 115JB provides the manner, in which, such book profit shall be computed. Explanation 1 to sub-section (2) to section 115JB contains various items by which such book profit would be increased or reduced, as the case may be. Clause (c) thereof provides as under:

“Explanation 1- For the purposes of this section, “book profit” means the profit as shown in the statement of profit and loss for the relevant previous year prepared under sub-section (2), as increased by

xxx

(c) The amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or”

7. The Supreme Court in case of **HCL Comnet Systems and Services Ltd. (supra)** considered the effect of this clause (c) in case of an assessee who had debited certain amount on account of bad and doubtful debt to the Profit and Loss

account. The Assessing Officer added the said sum to the book profit for the purpose of section 115JA of the Act relying on clause (c) of the explanation. The issue ultimately reached the Supreme Court in an appeal filed by the Revenue. The Supreme Court held that one of the requirements for the applicability of clause (c) is that the provision should be for unascertained liability. The case concerned the provision for bad and doubtful debt which is made to cover up the probable diminution in the value of the asset. The debt was therefore an amount receivable by the assessee. Therefore, the provision made in such a case cannot be stated to be the provision for liability.

8. The decision in case of **HCL Comnet Systems and Services Ltd. (supra)** gave rise to introduction of clause (g) to explanation 1 to sub-section (2) to section 115JA and clause (i) to explanation 1 to sub-section (2) to section 115JB by the Finance Act, 2009, with retrospective effect from 01.04.1998 and 01.04.2001 respectively. Clause (i) reads as under:

“(i) the amount or amounts set aside as provision for diminution in the value of any asset.”

9. In **Deepak Nitrite Limited**(supra), the Revenue relied on this change and argued that the decision of Supreme Court

in case of **HCL Comnet Systems and Services Ltd. (supra)** would not apply in case of provision for bad debts in view of the said amendment. The Court upheld such a contention and allowed the Revenue's appeal making following observations:

“**16.0** It is not in dispute that the assessee had made the provisions for doubtful debt. In fact the assessee itself had before the Tribunal contended that such provisions for the doubtful debt cannot be added for the computation of book profit for Section 115JA of the Act since there is no clause which speaks of adding back such provisions for diminution of value of assets. It is not in dispute that such provisions for doubtful debts would be which amount to diminution of value of assets. That being the position, in our opinion the case of the assessee is squarely covered under the clause (g) to explanation to Section 115JA. As already held by Delhi High Court in case of **CIT vs. ILPEA Paramount P. Ltd. (supra)**, the decision of the Apex Court in the case of **HCL Comnet Systems and Services Ltd. (supra)** cannot be applied in view of change in the statutory provisions with retrospective effect. It is true that the explanatory notes leading to the said amendment does not refer to the decision of the Apex Court in the case of **HCL Comnet Systems and Services Ltd. (supra)**. This, however, would not in any manner take away the fact that by virtue of clause (g) to the explanation, the said decision would no longer apply in the present case since the Apex Court had examined the position from the angle of the existing statutory provisions.

17.0 We are unable to see any demarcation between the provisions which would reduce the value of the assets against a situation where the value of the assets may come

down to 'Nil'. In either case there would be diminution in the value of assets. Even when the value of the assets is brought down to 'Nil' from the previously existing value, it can still be stated that there has been a diminution in the value of the assets. In any case no such facts arise in this appeal.”

10. In case of **Indian Petrochemicals Corporation Ltd.**

(supra), the Court was considering the following question of law :

“(E) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in upholding the order of the CIT(A) directing not to add provision for doubtful debts amounting to Rs.25,69,14,000/- while calculating book profit u/S.115JA of the Income Tax Act, 1961 without appreciating that it constitute a contingent liability and in other words unascertained liability covered by clause (c) of the Explanation below Section 115JA of the Act?”

11. It can be seen that the question was of the applicability of clause (c) of the explanation to section 115JA where the Revenue argued that the provision made was for a contingent liability or a liability which was unascertained. The Court referred to the decisions of Karnataka High Court in cases of **Yokogawa India Ltd.** (supra) and **Kirloskar Systems Ltd.** (supra) and decided thus :

“9. This brings us to the last question raised in the present appeal which pertains to provision for doubtful debts while calculating book profit u/s 115JA of the Act. The said issue has already been answered by the Karnataka High Court in the case of **Commissioner of Income Tax vs. Kirloskar Systems Ltd. reported in [2013] 40 taxmann.com 124 (Karnataka)** and in the case of **Commissioner of Income Tax vs. Yokogawa India Ltd. reported in [2012] 17 taxmann.com 15 (Kar.)**

.....10. Similarly, in the case of **Yokogawa India Ltd. (supra)**, the Karnataka High Court has held that while computing book profits, provisions made for bad and doubtful debts cannot be added back in accordance with Explanation (c) to Section 115JB(1) as same is not an ascertained liability. In that view of the matter, we are of the opinion that the Tribunal was justified in confirming the order of CIT(A) deleting the addition. We do not see any reason for interference and therefore we answer the question in favour of assessee and against the revenue. Accordingly, Tax Appeal No. 1775 of 2008 stands dismissed.”

12. We are called upon to decide the correctness of the view taken by this Court in cases of **Deepak Nitrite Limited(supra)** and **Indian Petrochemicals Corporation Ltd. (supra)**. In the process, we would also have to ascertain whether there is any conflict between the said two decisions. In order to do so, we may revisit the judgement of Supreme Court in case of **HCL Comnet Systems and Services Ltd. (supra)** more minutely. As

noted, it was a case where the assessee had debited certain sum on account of bad debts to the Profit and Loss account. The Assessing Officer added the said sum for computation of book profit for the purpose of section 115JA of the Act with the aid of clause (c) to the explanation. The Court held that in such a case, clause (c) would not be applicable. It was observed as under:

“10. As stated above, the said Explanation has provided six items, i.e., Item Nos.(a) to (f) which if debited to the profit and loss account can be added back to the net profit for computing the book profit. In this case, we are concerned with Item No. (c) which refers to the provision for bad and doubtful debt. The provision for bad and doubtful debt can be added back to the net profit only if Item (c) stands attracted. Item (c) deals with amount(s) set aside as provision made for meeting liabilities, other than ascertained liabilities. The assessee's case would, therefore, fall within the ambit of Item (c) only if the amount is set aside as provision; the provision is made for meeting a liability; and the provision should be for other than ascertained liability, i.e., it should be for an unascertained liability. In other words, all the ingredients should be satisfied to attract Item (c) of the Explanation to Section 115JA. In our view, Item (c) is not attracted. There are two types of “debt”. A debt payable by the assessee is different from a debt receivable by the assessee. A debt is payable by the assessee where the assessee has to pay the amount to others whereas the debt receivable by the assessee is an amount which the assessee has to receive from others. In the present case “debt” under consideration is “debt receivable” by the assessee. The provision for bad and doubtful debt, therefore, is made to cover up the probable diminution in the value of asset, i.e., debt which

is an amount receivable by the assessee. Therefore, such a provision cannot be said to be a provision for liability, because even if a debt is not recoverable no liability could be fastened upon the assessee. In the present case, the debt is the amount receivable by the assessee and not any liability payable by the assessee and, therefore, any provision made towards irrecoverability of the debt cannot be said to be a provision for liability. Therefore, in our view Item (c) of the Explanation is not attracted to the facts of the present case. In the circumstances, the AO was not justified in adding back the provision for doubtful debts of Rs.92,15,187/- under clause (c) of the Explanation to Section 115JA of the 1961 Act.

13. Thus, the Supreme Court in case of **HCL Comnet Systems and Services Ltd. (supra)** held that clause (c) of the explanation would apply to the debt payable by the assessee. In such a case, if the amount is set aside as a provision and provision is made for meeting a liability other than ascertained liability, clause (c) would come into force and such provision would be added in computation of book profit for the purpose of 115JA of the Act. This clause, however, would not cover a provision made for a debt which is receivable by the assessee. It was observed that the provision for bad and doubtful debts which is made to cover up probable diminution in the value of the asset, cannot be said to be a provision for liability because even if the debt is not recoverable, no liability could be fastened on the assessee.

14. To overcome such view of the Supreme Court, the Revenue added clauses (g) and (i) to the explanations in section 115JA and 115JB of the Act respectively with retrospective effect. With such addition now the book profit for the purpose of section 115JB of the Act would be increased by the amount or amounts set aside as provisions for diminution in the value of any asset. The explanatory note for introduction of such amendment clarified that the new clause (i) was inserted “so as to provide that if any provision for diminution in the value of any asset has been debited to the profit and loss account, it shall be added to the net profit as shown in the profit and loss account for the purpose of computation of book profit.” This legislative change thus was clearly necessitated on account of the judgment of the Supreme Court in case of **HCL Comnet Systems and Services Ltd.** (**supra**) holding that under clause(c) to the explanation any provision for bad or doubtful debts for diminution in the value of any asset cannot be added to the book profit of the assessee.

15. This Court in **Deepak Nitrite Limited**(**supra**), as noted, held that in view of such statutory change, the decision of Supreme Court in case of **HCL Comnet Systems and Services Ltd. (supra)**, would allow the

Revenue to make such addition. Delhi High Court in case of **Commissioner of Income-tax v. ILPEA Paramount (P) Ltd** reported in (2011) 336 ITR 54 (Delhi) had come to similar conclusion. Seen from this light and in this context, the decision in case of **Deepak Nitrite Limited**(supra), lays down the correct proposition.

16. We may however, appreciate the implication of the ratio laid down by the Supreme Court in case of **Vijaya Bank**(supra), on the true interpretation of clause(i) to the explanation 1 and the decisions of Karnataka High Court in cases of **Yokogawa India Ltd.** (supra) and **Kirloskar Systems Ltd.** (supra). **Vijaya Bank**(supra) was a case arising under section 36(1)(vii) of the Act. The assessee before the Supreme Court was a bank. The issue considered by the Supreme Court was whether it was imperative for the assessee bank to close the individual account of each of its debtors in its books or a mere reduction in the loans and advances or debtors on the asset side of its balance sheet to the extent of the provision for bad debt, would be sufficient to constitute a write-off. In this context, the Supreme Court considered the issue as to the manner in which the actual write off takes place under the accounting principle. It was noticed that prior to 1.4.1989 amendment in section 36(1)(vii), even the

provision for the bad debt could be treated as write off. After 1.4.1989 however, a mere provision for bad debt would not be entitled to deduction under Section 36(1)(vii) of the Act. In context of such statutory change, the Supreme Court referred to the decision in case of **Southern Technologies Ltd. v. Commissioner of Income-tax** reported in (2010) 2 Supreme Court Cases 548, in which the following observations were made :

“Prior to April 1, 1989, the law, as it then stood, took the view that even in cases in which the assessee(s) makes only a provision in its accounts for bad debts and interest thereon and even though the amount is not actually written off by debiting the profit and loss account of the assessee and crediting the amount to the account of the debtor, the assessee was still entitled to deduction under section 36(1)(vii). [See CIT v. Jwala Prasad Tiwari (1953) 24 ITR 537 (Bom) and Vithaldas H. Dhanjibhai Bardanwala vs. CIT (1981) 130 ITR 95 (Guj)] Such state of law prevailed up to and including the assessment year 1988-89. However, by insertion (with effect from April 1, 1989) of a new Explanation in section 36(1)(vii), it has been clarified that any bad debt written off as irrecoverable in the account of the assessee will not include any provision for bad and doubtful debt made in the accounts of the assessee. The said amendment indicates that before April 1, 1989, even a provision could be treated as a write off. However, after April 1, 1989, a distinct dichotomy is brought in by way of the said Explanation to section 36(1)(vii). Consequently, after April 1, 1989, a mere provision for bad debt would not be entitled to deduction under Section 36(1)(vii). To understand the above dichotomy, one must understand ‘how to write off’. **If an assessee debits an**

amount of doubtful debt to the profit and loss account and credits the asset account like sundry debtor's account, it would constitute a write off of an actual debt. However, if an assessee debits 'provision for doubtful debt' to the profit and loss account and makes a corresponding credit to the 'current liabilities and provisions' on the liabilities side of the balance-sheet, then it would constitute a provision for doubtful debt. In the latter case, the assessee would not be entitled to deduction after April 1, 1989."

17. The Supreme Court (in **Vijaya Bank**) further observed as under :

"7. One point needs to be clarified. According to Shri Bishwajit Bhattacharya, learned Additional Solicitor General appearing for the Department, the view expressed by the Gujarat High Court in the case of Vithaldas H. Dhanjibhai Bardanwala [supra] was prior to the insertion of the Explanation vide Finance Act, 2001, with effect from 1st April, 1989, hence, that law is no more a good law. According to the learned counsel, in view of the insertion of the said Explanation in Section 36(1)(vii) with effect from 1st April, 1989, a mere debit of the impugned amount of bad debt to the Profit and Loss Account would not amount to actual write off. According to him, the Explanation makes it very clear that there is a dichotomy between actual write off on the one hand and a provision for bad and doubtful debt on the other. He submitted that a mere debit to the Profit and Loss Account would constitute a provision for bad and doubtful debt, it would not constitute actual write off and that was the very reason why the Explanation stood inserted. According to him, prior to Finance Act, 2001, many assessees used to take the benefit of deduction under Section 36(1)(vii) of

1961 Act by merely debiting the impugned bad debt to the Profit and Loss Account and, therefore, the Parliament stepped in by way of Explanation to say that mere reduction of profits by debiting the amount to the Profit and Loss Account per se would not constitute actual write off. To this extent, we agree with the contentions of Shri Bhattacharya. However, as stated by the Tribunal, in the present case, besides debiting the Profit and Loss Account and creating a provision for bad and doubtful debt, the assessee-Bank had correspondingly/simultaneously obliterated the said provision from its accounts by reducing the corresponding amount from Loans and Advances/debtors on the asset side of the Balance Sheet and, consequently, at the end of the year, the figure in the loans and advances or the debtors on the asset side of the Balance Sheet was shown as net of the provision "for impugned bad debt". In the judgement of the Gujarat High Court in the case of Vithaldas H. Dhanjibhai Bardanwala [supra], a mere debit to the Profit and Loss Account was sufficient to constitute actual write off whereas, after the Explanation, the assessee(s) is now required not only to debit the Profit and Loss Account but simultaneously also reduce loans and advances or the debtors from the asset side of the Balance Sheet to the extent of the corresponding amount so that, at the end of the year, the amount of loans and advances/debtors is shown as net of provisions for impugned bad debt. This aspect is lost sight of by the High Court in its impugned judgement. In the circumstances, we hold, on the first question, that the assessee was entitled to the benefit of deduction under Section 36(1)(vii) of 1961 Act as there was an actual write off by the assessee in its Books, as indicated above."

18. It can thus be seen that in case of **Southern Technologies Ltd.**(supra), the Supreme Court explained that if an assessee debits an amount of doubtful debt to

the Profit and Loss account and credits the asset account like sundry debtor's account, it would constitute a write-off of an actual debt. On the other hand, if an assessee debits provision for doubtful debt to the Profit and Loss account and makes a corresponding credit to the current liabilities and provisions on the liabilities side of the balance sheet, then it would constitute a provision for doubtful debt and in such a case after 1.4.1989, the assessee could claim no deduction under section 36(1)(vii) of the Act.

19. This principle was further clarified in case of **Vijaya Bank**(supra) by observing that in case on hand, the assessee besides debiting the profit and loss account and creating a provision for bad and doubtful debt, had simultaneously obliterated the said provision from its accounts by reducing the corresponding amount from loans and advances/debtors on the asset side of the balance sheet and consequently, at the end of the year, the figure of loans and advances or the debtors on the asset side of the balance sheet was shown as net of the provision for the bad debt. Thereafter, the Supreme Court rejecting the Revenue's contention that for the bank to take benefit of section 36(1)(vii), must close the account of the debtors, decided the question in favour of the assessee.

20. Above decisions of Supreme Court in cases of **Southern Technologies Ltd.**(supra) and **Vijaya Bank**(supra) thus bring out a clear distinction between a case where the assessee may make a provision for doubtful debt and a case where the assessee after creating such a provision for bad and doubtful debt by debiting in Profit and Loss account also simultaneously removes such provision from its account by reducing the corresponding amount from the loans and advances on the asset side of the balance sheet. The later would be an instance of write-off and not a mere provision.
21. Karnataka High Court in case of **Yokogawa India Ltd.** (supra) applying such principle found that case on hand was one of a debt which was an amount receivable by the assessee and not any liability payable by the assessee and observed that clause(c) of the explanation to section 115JA/115JB, would not apply. In context of applicability of clause(i) to the explanation, relying on the decision of Supreme Court in case of **Vijaya Bank**(supra), the Court observed that there is a dichotomy between actual write off and provision for bad and doubtful debt. A mere debit to the Profit and Loss account would constitute a bad and doubtful debt but it would not constitute actual write off. However, if simultaneously such amount is obliterated

from the accounts by reducing corresponding loans and advances on the asset side, the same would amount to a write off. It was concluded as under :

“...Therefore, after the Explanation the assessee is now required not only to debit the P&L A/c but simultaneously also reduce the loans and advances or the debtors from the assets side of the balance sheet to the extent of the corresponding amount so that, at the end of the year, the amount of loans and advances/debtors is shown as net of the provisions for the impugned bad debt. Therefore, in the first place if the bad debt or doubtful debt is reduced from the loans and advances or the debtors from the assets side of the balance sheet the Explanation to s. 115JA or JB is not at all attracted.”

22. In case of **Kirloskar Systems Ltd.** (supra), the Karnataka High Court adopted the same principle.

23. By way of culmination of above judicial pronouncements and statutory provisions, the situation that arises is that prior to the introduction of clause(i) to the explanation to section 115JB, as held by the Supreme Court in case of **HCL Comnet Systems and Services Ltd.** (supra), the then existing clause (c) did not cover a case where the assessee made a provision for bad or doubtful debt. With insertion of clause (i) to the explanation with retrospective effect, any amount or amounts set aside for provision for diminution in the value of the asset made by

the assessee, would be added back for computation of book profit under section 115JB of the Act. However, if this was not a mere provision made by the assessee by merely debiting the Profit and Loss Account and crediting the provision for bad and doubtful debt, but by simultaneously obliterating such provision from its accounts by reducing the corresponding amount from the loans and advances on the asset side of the balance sheet and consequently, at the end of the year showing the loans and advances on the asset side of the balance sheet as net of the provision for bad debt, it would amount to a write off and such actual write off would not be hit by clause (i) of the explanation to section 115JB. The judgment in case of **Deepak Nitrite Limited**(supra) fell in the former category whereas from the brief discussion available in the judgment it appears that case of **Indian Petrochemicals Corporation Ltd.** (supra), fell in the later category.

24. Viewed from this angle and subject to the observations and clarifications made above, in our view, there is no conflict between the two judgments and both operate in different fields. Reference is answered accordingly.

25. Tax Appeal may now be placed before regular

Division Bench taking up the subject matter.

(AKIL KURESHI, J.)

(J.B.PARDIWALA, J.)

(A.J. SHASTRI, J.)

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