



IN THE HIGH COURT OF DELHI

ITR No.213/80

Date of Decision: 6th December, 2000

The Commissioner of Income-tax  
Delhi-I .....Petitioner

through: Mr.R.C.Pandey with  
Ms.Prem Lata Bansal and  
Mr.Ajay Jha, Advocates

Versus

M/s.Regal Theatre .....Respondent

through: Mr.Janesh Baweja,  
Advocate

CORAM:

THE HON'BLE MR.JUSTICE ARIJIT PASAYAT, CHIEF JUSTICE

THE HON'BLE MR.JUSTICE D.K. JAIN

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?

ARIJIT PASAYAT,C.J. (Oral)

At the instance of Revenue, following question has been referred for opinion of this Court under Section 2561(1) of the Income-tax Act, 1961 (in short 'the Act') by Income-tax Appellate Tribunal Delhi Bench-D (in short 'Tribunal'):

"Whether on the facts and the circumstances of the case the Tribunal was correct in law in holding that the amounts of Rs.28,474/- and Rs.2,738/- aggregating Rs.31,212/- did not represent the entertainment expenditure contemplated u/s 37(2B) of Income-tax Act, 1961 -?"

....contd/-



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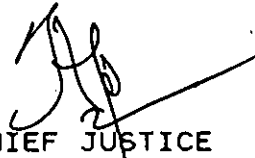
[ITR 213/80]

Factual position in nutshell is as follows:

Assessee incurred an expenditure of Rs.42,040/- on different items for the assessment year 1974-75 for which the relevant previous year ended on 31st October, 1973. Income-tax Officer disallowed the entire amount holding it to be of entertainment nature. Disallowance was confirmed by the Appellate Assistant Commissioner. Assessee carried the matter in appeal before the Tribunal. Tribunal was of the view that a sum of Rs.5,859/- incurred on the purchase of beer and wine and Rs.4,979/- incurred by the partners to meet their club bills were clearly disallowable. So far as the other items are concerned, they were held to be allowable and it was also held that provisions of Section 37(2B) of the Act has no application to the case. On being moved for reference, the question as set out above has been referred for opinion of this Court.

We have heard learned counsel for the parties.

In view of decision of the Apex Court in CIT v. Patel Brothers & Co. Ltd and Others (1995) 215 ITR 165, our answer to the question referred is in the affirmative, in favour of assessee and against Revenue.



CHIEF JUSTICE



D.K. JAIN, J.

6th December, 2000

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