
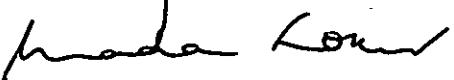




| Sr. No. | Date | Orders |
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| | | <p data-bbox="502 230 1460 264">+ IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p data-bbox="406 347 718 380">+ ITA 182/2003</p> <p data-bbox="502 470 1436 548">THE COMMISSIONER OF INCOME TAX Appellant Through Mr. R.D. Jolly, Adv.</p> <p data-bbox="694 604 790 638">versus</p> <p data-bbox="502 728 1388 806">M/S INDOCOUNT FINANCE LTD. Respondent Through Nemo.</p> <p data-bbox="502 896 1268 1019">CORAM: HON'BLE MR. JUSTICE D.K. JAIN HON'BLE MR. JUSTICE MADAN B. LOKUR</p> <p data-bbox="790 1108 965 1187"><u>ORDER</u> 15.12.2003</p> <p data-bbox="406 1153 438 1187">%</p> <p data-bbox="406 1288 1524 1646">The issue sought to be raised by the Revenue in this appeal under Section 260-A of the Income-tax Act, 1961, already stands concluded by a decision of this Court in <u>Commissioner of Income Tax Vs. Bansal Credits Ltd.</u> (2003) 259 ITR 69 and, therefore, no question of law, much less a substantial question of law, survives for our consideration.</p> <p data-bbox="406 1691 1524 2065">It is, however, submitted by Mr. Jolly, learned counsel for the Revenue that infact the penultimate paragraph of the said decision inter supports the case of the Revenue in as much as the assessee had not adduced any evidence to show that the leased out vehicles were used by the lessee in the business of running them on hire.</p> |



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| | | <p>We are unable to agree with learned counsel. We find that before the first appellate authority it was specifically pleaded on behalf of the assessee that there was no difference in the use of trucks by the assessee as owner on hire or in giving the trucks to some other party for using them "in their business on hire." The first appellate authority has not commented adversely on the said plea. Even before the Tribunal it was never pleaded that the leased out trucks were not used in the business of hire. It is now too late in the day for the Revenue to raise such an issue for the first time in this appeal, which, having regard to the limited jurisdiction of this Court under Section 260 A of the Act, cannot be permitted. It was then contended by learned counsel for the Revenue that the Supreme Court has now issued notice in some of the special leave petitions filed by the Revenue on a similar issue.</p> <p>We are of the considered opinion that in view of the fact that the Apex Court has dismissed special leave petitions filed by the Revenue as well as by the assessee against the afore-noted judgment of this Court and it has attained finality, the issue raised cannot be termed as a substantial question of law. Accordingly, we decline to entertain the appeal.</p> <p style="text-align: right;">  D.K. JAIN, J </p> <p style="text-align: right;">  MADAN B. LOKUR, J </p> <p style="text-align: center;"> DECEMBER 15, 2003 rkr </p> |