



| Sr. No. | Date | Orders |
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| | | <p>f * IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ ITA 179/2003</p> <p>DIR. OF INCOME TAX INTERNATION Appellant Through Mr. Sanjiv Khanna with Mr. Subhash C. Sharma, Advs.</p> <p>versus</p> <p>M/S SAHARA AIRLINES LTD. Respondent Through Nemo</p> <p>CORAM: HON'BLE MR. JUSTICE D.K. JAIN HON'BLE MR. JUSTICE MADAN B. LOKUR</p> <p style="text-align: center;"><u>ORDER</u> 19.05.2003</p> <p>%</p> <p>This appeal by the Revenue is directed against order dated 8 November 2002, passed by the Income-tax Appellate Tribunal Delhi Bench-E, New Delhi (for short 'the Tribunal') in assessee's miscellaneous application No.238/Del./2002 arising out of ITA 950-954/Del/2001, pertaining to the assessment years 1994-95 to 1998-99. By the impugned order, the Tribunal has rectified paragraph 38 of its order dated 12 February 2002 passed in the main appeal to the extent that it ^{has} restored back to the file of the Commissioner of Income-tax (Appeals) the ^{with} regard to the exchange of spare parts by the assessee with various parties in foreign countries.</p> <p style="text-align: right;">It is submitted by Mr.Sanjiv Khanna, learned senior standing</p> |



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counsel for the Revenue, that while passing the said order the Tribunal has failed to appreciate that the issue with regard to other spare parts was remitted back to the Deputy Commissioner of Income-tax by the Commissioner (Appeals) and in terms of the said direction, the Deputy Commissioner of Income-tax was to examine the invoices etc whereas the issue with regard to some other spare parts, the Tribunal has directed the Commissioner (Appeals) to examine the issue himself, which is likely to create some anomaly if not confusion.

We do not agree with learned counsel for the Revenue. When the matter is taken up by the Commissioner (Appeals), pursuant to the directions by the Tribunal, it is always open to the Revenue to bring ^{all} the facts to the notice of the Commissioner (Appeals) and it will be open to the Commissioner to pass appropriate orders thereon, which would obviously include restoration of the issue to the file of the Assessing Officer

In our view no question of law, much less a substantial question of law, arises from the impugned order. We accordingly decline to entertain the appeal. Dismissed.

D.K. Jain
D.K. JAIN, J

Madan Lokur
MADAN B. LOKUR, J

MAY 19, 2003

"v"