



* IN THE HIGH COURT OF DELHI
 + W P (C) No 2685 of 2003
 % Date of Decision - July 27, 2004

Apparel Export Promotion Council Appellant

Through Mr B B Ahuja, Senior Advocate,
 with Mr R R. Dwivedi, Advocate

Versus

Deputy Director of Income Tax (Exemption). Respondent

Through Mr R D Jolly, Advocate

Coram :

Hon'ble Mr. Justice B.C. Patel, Chief Justice.
 Hon'ble Mr. Justice Badar Durrez Ahmed.

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

B C PATEL, C J (ORAL)

1. The petitioner has challenged the orders of adjustment dated 31 12 1992 and 31 1 2003 whereby the amounts of Rs 1,33,91,754/- and Rs 9,93,214/- respectively have been adjusted. The copies of the orders are placed on record. These adjustments were made in exercise of powers under Section 245 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). Section 245 of the Act reads as under:-

"Where under any of the provisions of this Act, a refund is



found to be due to any person, the (Assessing) Officer, Commissioner (Appeals), Commissioner (Appeals) or Chief Commissioner or Commissioner, as the case may be, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section ”

2. It is required to be noted that adjustment is to be made only after giving intimation in writing to such person of the action proposed to be taken under Section 245 of the Act. In the present case, no intimation was given prior to the adjustments. Therefore, these adjustments are quashed and set aside. The petition stands allowed accordingly.

Dasti

Badar Durrez Ahmed
CHIEF JUSTICE

Badar Durrez Ahmed
BADAR DURREZ AHMED, J.

July 27, 2004
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