



THE HIGH COURT OF DELHI AT NEW DELHI

**ITA.No.272/2003,273/2003,280/2003,282/2003, 302/2003,
303/2003, 304/2003, 320/2003,342/2003, 343/2003**

Judgment delivered on: 24.08.2004

COMMISSIONER OF INCOME-TAX

...Appellant

- versus -

BRITISH AIRWAYS

...Respondent

Advocates who appeared in this case:

For the Appellant : Mr R.D. Jolly with Mr S.C. Sharma, Advocate.

For Respondent : Mr Satish Khosla, Advocate.

CORAM:-

**HON'BLE MR JUSTICE B.C. PATEL, CHIEF JUSTICE
HON'BLE MR JUSTICE BADAR DURREZ AHMED**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in Digest?

CHIEF JUSTICE (ORAL)

1. Admit.
2. At the request of the learned counsel for the parties, we are taking up these matters for final hearing and disposal.
3. The common question in these appeals is:-

Whether the Income Tax Appellate Tribunal was justified in dismissing the



appeals in limine only because the grounds were not mentioned in Memoranda of Appeal?

4. These appeals have been filed by the Revenue as the Tribunal dismissed their appeals in limine as the grounds were not mentioned in the memoranda of appeal in Form 36. On a similar question, the Tribunal (Chandigarh) earlier disposed of the matter and rejected the appeal in limine against which the appeal was preferred before the Punjab and Haryana High Court in the case of Commissioner of Income-tax v M/s V.K. Sood Engineers & Contractors (P) Ltd 264 ITR 313. The court, after examining the matter and the applicable rules in detail, allowed the appeal, set aside the order made by the Tribunal and remanded the matter to the Tribunal for disposal on merits. In our view identical questions arise in the present appeals as well. The counsel for the respondents, after considering the decision in the case of CIT v V.K. Sood (supra), was not in position to point out as to why the present appeals are required to be dealt with differently. In a matter like this, the Tribunal, instead of dismissing the appeals in limine ought to have rejected the appeals under Rule 12 of Appellate Tribunal Rules 1963 or ought to have returned the same for being amended within such time as it may have allowed.



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5. In view of what is stated herein above, the question is answered in the negative and these appeals are allowed. The impugned order is set aside, the appeals before Tribunal are restored and the Tribunal is directed to dispose of the appeals on merits. It is also directed that if the Commissioner of Income-tax has not filed the grounds of appeal so far, he shall file the same within a period of four weeks from today.

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CHIEF JUSTICE

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BADAR DURREZ AHMED, J

August 24, 2004
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Original order is placed in *ITA.No.272/2003*.

ITA.No.272/2003, 273/2003, 280/2003, 282/2003, 300/2003, 303/2003, 304/2003, 320/2003, 342/2003, 343/2003, etc**/final**.