



* **HIGH COURT OF DELHI : NEW DELHI**

+ **WP (C) No.5454 of 2000**

% **Decided on: February 13, 2006**

M/s. United Airlines **...Petitioner**
Through **Mr.Ajay Vohra with Ms.Kavita Jha**
and Mr.Vinay Vaish

versus

The Commissioner of Income-tax & Ors. **...Respondents**
Through **Mr.R.D. Jolly with Mr.Ajay Jha**
and Mr.Deepak Shukla

Coram:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR

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

MARKANDEYA KATJU, CJ (ORAL) :

This writ petition has been filed against the impugned judgment of the Commissioner of Income Tax dated 24th March, 2000 under Section 264 of the Income Tax Act.



Heard learned counsel for the parties and perused the record.

A perusal of the impugned order shows that it has been stated therein that if the taxes have been paid by the payee, the same cannot be recovered from him. Having said so, the Commissioner of Income Tax directed the Assessing Officer to make necessary inquiries from the JCIT, Spl. Range-14, New Delhi having jurisdiction over the case of M/s. Airport Authority of India to verify the assessee's claim whether the payments made by the assessee have been duly accounted for while completing the assessment of it.

The Petitioner in this case, hence, can have no grievance to that part of the order. As regards the liability to pay interest under Section 201(1A), this liability is only till the date of the payment. In this connection, section 201 (1A) ^{of the Income Tax Act} states -

“201 (1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at twelve per cent per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.”

We, therefore, direct the Assessing Officer to act in accordance



with the above provision and re-quantify the interest, if any, payable by the person concerned and pass appropriate orders after hearing the assessee and considering whether taxes have been paid by the payee, as alleged and whether there is any liability on the assessee to pay interest under Section 201(1A) of the Act.

The submissions which the learned counsel for the assessee urges before us regarding the question of interest can be raised before the Assessing Officer and will be disposed of in accordance with law. Till the Assessing Officer decides these questions, he shall not realise the amount in question.

The petition is disposed of with these observations.

A handwritten signature in black ink, appearing to be 'M', located above the title 'CHIEF JUSTICE'.

CHIEF JUSTICE

A handwritten signature in black ink, appearing to be 'Madan Lokur', located above the name 'MADAN B. LOKUR, J'.

MADAN B. LOKUR, J

FEBRUARY 13, 2006
kapil