



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 928/2005**

COMMISSIONER OF INCOME TAX DEL Appellant
Through **Ms. P. L. Bansal, Adv.**
versus

M/S GUARDIAN INTERNATIONAL COR Respondent
Through **Ms. Kavita Jha with**
Mr. Ajay Vohra, Adv.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

24.08.2006

The Revenue is aggrieved by an order dated 14th February, 2005 passed by the Income Tax Appellate Tribunal, Delhi Bench 'G' in ITA No. 2291/Del/2000 relevant for the assessment year 1996-97.

The issue that arose in this appeal was that one Gujarat Guardian Limited had entered into an agreement with the Assessee. Under the agreement, Gujarat Guardian Limited was to pay some technical fee as well as royalty. According to the Assessing Officer the royalty had accrued to the Assessee and, therefore, it was the income of the Assessee which was taxable. According to the Assessee, royalty was due to its parent company, that is, Guardian Industries Corporation.

The Assessing Officer took a view that royalty had accrued to the Assessee and therefore levied tax accordingly. The view taken by the Assessing Officer was upset by the Commissioner of Income Tax (Appeals) and the Tribunal upheld the view taken by the CIT (A).



Under these circumstances, the Revenue has filed an appeal challenging the order passed by the Tribunal.

When the matter was listed on 8th February, 2006, learned counsel for the Assessee took time to place on record the fact that royalty was payable to the Assessee's parent company that is Guardian Industries Corporation and that the amount was in fact received by the parent company. An affidavit has now been filed by the Assessee in which it has clearly been stated that Guardian Industries Corporation received royalty through two remittances made on 9th October, 2001 and 31st March, 2002. It has also been stated on affidavit that Guardian Industries Corporation has offered the royalty received for taxation for the assessment year 2002-03 and TDS has been deducted by Gujarat Guardian Limited.

In view of these developments, we are of the view that no substantial question of law arises for our consideration.

Dismissed.


MADAN B. LOKUR, J


VIPIN SANGHI, J

AUGUST 24, 2006
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