



* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA 563/2006

COMMISSIONER OF INCOME TAX TDS Appellant
Through Ms.P.L. Bansal

versus

M/S JAPAL EXTERNAL TRADE ORGAN Respondent
Through

CORAM:
HON'BLE MR. JUSTICE T.S.THAKUR
HON'BLE MR. JUSTICE SHIV NARAYAN DHINGRA

ORDER
21.04.2006

%

CM NO. 4417/2006 (for exemption)

Allowed subject to all just exceptions.

ITA 563/2006

The Supreme Court has in *Hindustan Steels Versus State of Orissa 1983 ITA 26* declared that a penalty is not to be ordinarily imposed unless the party concerned is shown to have deliberately acted in defiance of law, or that it was guilty of conduct that is contumacious or dishonest or that it has acted in conscious disregard of its legal obligations. The Commissioner of Income Tax Appeals has relying upon the said decision and taking note of the facts and the circumstances of the present case, deleted the penalty imposed upon the respondent assessee for its failure to deduct at source tax from the rent paid by it to the owner of the property under the occupation of the assessee. The Tribunal has in an appeal filed against the said deletion affirmed the said view. Relying upon the decision of this Court in *Woodward Governors India Pvt. Ltd Versus*



CIT and Ors. 253 ITR 745 and in Azadi Bachao Aandolan Versus UOI 116 Taxman

249 the Tribunal has held that the assessee was in the peculiar facts and circumstances of the case under a bona fide belief that it was not required to make any deduction from the rent payable by it to its landlord. On the concurrent findings recorded by the Commissioner and the Tribunal and keeping in view the fact that the recipient of the rent had admittedly paid all his tax dues, we see no substantial question of law arising for our consideration in this appeal which fails and is hereby dismissed.

T.S. THAKUR, J

SHIV NARAYAN DHINGRA, J

APRIL 21, 2006
'ns'