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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 18110/2006

REACH CABLE NETWORKS LTD. Petitioner
Through
Mr.Soli J.Sorabjee, Sr.Advocate and
Mr.S.Ganesh, Sr.Advocate with
Mr.Pritesh Kapur, Mr.Ajay Bahl,
Ms.Garima Bharti, and Mr.Sanjeev
Puri,Advocates

versus

DEPUTY DIRECTOR OF INCOME TAX Respondent
Through
Mr.Sanjeev Sabharwal, Senior
Standing Counsel for R-1 and R-2
Ms.Madhu Sharan, Advocate for R-3

CORAM:
HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE DR. JUSTICE S. MURALIDHAR

ORDER
12.12.2006

WP(C) 18110/2006 & CM 15012/2006(stay)

Despite notice having been accepted by them on 5.12.2006, counter affidavits have not been filed by the Respondents. They have, however, produced a copy of the ledger account of Data Access (India) Ltd., on which the Assessing

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Officer placed reliance in the course of the reassessment proceedings under Section 147 of the Income Tax Act, 1961. The Petitioner had repeatedly requested for supply of copies of the documents on the basis of which the Section 147 proceedings had been initiated. While disposing of the petitioner's objections, the Respondent No.1 had, in the order dated 13.10.2006, observed that the Petitioner would, if found necessary, be confronted with these documents during the re-assessment proceedings. However, the reassessment order was framed on 17.11.2006 without furnishing to the petitioner copies of these documents. This order dated 17.11.2006 is now assailed in the present writ petition principally on the ground of violation of natural justice.

As already observed, in response to the notice issued to it by this court, the Revenue has produced before this court the aforementioned copy of the ledger account, and has also handed over a copy of the same to the counsel for the petitioner. We find no justifiable reason why this could not have been done during the reassessment proceedings itself. This in our view vitiates the reassessment order. In similar circumstances, a Constitution Bench of the Hon'ble Supreme Court reached the same conclusion in *Dhakeswari Cotton Mills Ltd. vs. Commissioner of Income Tax, West Bengal*, [1955] SCR 941.



The Court there gave the following consequential directions:

"In the result we allow this appeal, set aside the order of the Tribunal and remand the case to it with directions that in arriving at its estimate of gross profits and sales it should give full opportunity to the assessee to place any relevant material on the point that it has before the Tribunal, whether it is found in the books of account or elsewhere and it should also disclose to the assessee the material on which the Tribunal is going to found its estimate and then afford him full opportunity to meet the substance of any private inquiries made by the Income-tax Officer if it is intended to make the estimate on the foot of those enquiries. It will also be open to the department to place any evidence or material on the record to support the estimate made by the Income-Tax Officer or by the Tribunal in its judgment. The Tribunal if it thinks fit may remit the case to the Income-tax Officer for making a fresh assessment after taking such further evidence as is furnished by the assessee or by the department. The costs of these proceedings will abide the result."

Respectfully following the above binding dictum, we hereby set aside the reassessment Order dated 17th November, 2006. A direction is issued to the Respondents to provide to the petitioner copies of any other document or material on which the Revenue seeks to rely. These documents/material will be supplied within two weeks from today. The Petitioner shall fully participate in these proceedings. The Petitioner shall respond/reply to the documents/material supplied within two



weeks thereafter.

In the special circumstances of the present case, we extend the period for the completion of the reassessment proceedings upto 28th February, 2007.

With the above directions, the writ petition is disposed of.

CM for stay also stands disposed of, accordingly.


VIKRAMAJIT SEN, J


S. MURALIDHAR, J

DECEMBER 12, 2006
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