



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

+ **ITA No. 1352 of 2006**

Judgment reserved on: August 1, 2007

% Judgment delivered on: August 10, 2007

M/s Indag Rubber Limited  
11, Community Centre  
Saket, New Delhi-110017

...Appellant

Through Mr. O.S. Bajpai, Advocate

Versus

Commissioner of Income Tax  
New Delhi.

...Respondent

Through Mrs. Prem Lata Bansal, Advocate

Coram:

**HON'BLE MR. JUSTICE MADAN B. LOKUR**  
**HON'BLE MR. JUSTICE V.B. GUPTA**

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

**MADAN B. LOKUR, J.**

The Assessee entered into an agreement on 24<sup>th</sup> July, 1991



with the Rajasthan State Road Transport Corporation for supply of cold process retreading plant and retreading material for retreading the old tyres of the buses of the Corporation.

2. Some disputes arose between the Assessee and the Corporation with the result that they were referred to the Chairman of the Corporation for arbitration.

3. On 4<sup>th</sup> April, 1997, the Chairman gave his Award but since that was not acceptable to the Assessee, objections were filed under Sections 30 and 33 of the Arbitration Act, 1940 before the District Judge, Jaipur.

4. By an order dated 22<sup>nd</sup> November, 1999, the District Judge dismissed the objections and the Award was made a rule of the Court.

5. According to the Assessee, a contingent liability had arisen on 4<sup>th</sup> April, 1997 (the date of the Award) and on this basis, a claim of deduction was made by the Assessee. This was not accepted by the Assessing Officer who held that the liability arose on the date when the Award was made a rule of the Court, that is, 22<sup>nd</sup> November, 1999.

6. The view taken by the Assessing Officer was reversed by the Commissioner of Income Tax (Appeals) who held that the liability had



accrued on 4<sup>th</sup> April, 1997.

7. In further appeal, the Income Tax Appellate Tribunal accepted the view of the Assessing Officer.

8. On these broad facts, we are of the view that a substantial question of law arises for consideration. Accordingly, we admit this appeal and frame the following substantial question of law:

“Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that it is the date on which the Award was made a rule of the Court (22<sup>nd</sup> November, 1999) and not the date of the Award (4<sup>th</sup> April, 1997) that should be taken into consideration for the accrual of the liability of the Assessee to the Rajasthan State Road Transport Corporation for the purpose of Section 37(1) of the Income Tax Act, 1961?”

9. Filing of the paper books is dispensed with.

**Madan B. Lokur, J**

**August 10, 2007**

ncg

**V.B. Gupta, J**

Certified that the corrected copy of the judgment has been transmitted in the main Server.