



* IN THE HIGH COURT OF DELHI AT NEW DELHI

31.

+ W.P.(C) 6336/2007 & CM No. 11877/2007(stay)

COMMISSIONER OF INCOME TAX Petitioner
Through Ms. P.L.Bansal, Advocate.

versus

BHARAT HEAVY ELECTRICALS LTD & ANR Respondent
Through

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S.MURALIDHAR

ORDER

% 30.08.2007

In this writ petition the Revenue has challenged orders dated 12th January, 2007 and 10th April, 2007 passed by the Income Tax Appellate Tribunal.

The Assessee sought to add an additional ground and the Tribunal permitted the Assessee to raise the additional ground.



The contention of learned counsel for the Revenue is that the raising of an additional ground could not have been allowed because the Assessee had not taken the approval of the Committee on Disputes ('COD') to raise the additional ground. It is for this reason that the present writ petition has been filed challenging the order passed by the Tribunal permitting the Assessee to raise the additional ground.

Without going into the merits of the case or otherwise, we are of the view that the additional ground having been permitted to be raised by the Tribunal, the Revenue can always contest the appeal pending before the Tribunal on merits and in the event the Revenue does not succeed in its case, it will of course be open for the Revenue to challenge the order passed by the Tribunal under Section 260 A of the Income Tax Act, 1961. At that time, the Revenue can urge that the Tribunal had erroneously permitted the Assessee to raise the additional ground without the approval of the Committee on Disputes.

Keeping this writ petition pending will not serve any purpose other than burdening the docket of this Court. Since we have permitted the Revenue



to challenge the decision rendered by the Tribunal regarding entertainer

the additional ground, we think no further orders need to be passed in this writ

petition.

Under the circumstances, the writ petition and all pending applications are disposed of with liberty to the Revenue as mentioned above.


MADAN B. LOKUR, J



S.MURALIDHAR, J

AUGUST 30, 2007

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