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% 01.10.2008

Present: Ms Prem Lata Bansal for the Appellant.  
Mr Prem Nath Monga with Mr Manu Monga  
for the Respondent.

+ CM 13322/2008 in ITA 1164/2008

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The delay in re-filing is condoned.

This application stands disposed of.

ITA 1164/2008

This appeal under Section 260 A of the Income Tax Act, 1961 (hereinafter referred to as the 'said Act') filed by the revenue is directed against the order 29.06.2007 passed by the Income Tax Appellate Tribunal in ITA 2878/Del/2004 pertaining to the assessment year 2000-2001.

The only issue sought to be raised in this appeal relates to the expenditure of Rs 4.29 crores on advertising / publicity for the purposes of making the assessee's product known to the market. The Assessing Officer had disallowed 1/3<sup>rd</sup> of the said amount treating the same to be of capital nature by concluding that the



expenditure gave an enduring benefit to the assessee. The Commissioner of Income Tax (Appeals) deleted the said addition and allowed the entire expenditure under Section 37 (1) of the said Act by holding that the same was entirely revenue in nature.

The Income Tax Appellate Tribunal, by virtue of the impugned order, confirmed the deletion made by the Commissioner of Income Tax (Appeals) and, relying on its order in respect of assessment year 2001-2002, held that the expenditure was of a revenue nature and, therefore, was allowable under Section 37 (1) of the said Act.

The revenue filed an appeal against the Tribunal's order for the assessment year 2001-2002. The said appeal is numbered as ITA 173/2008. An identical question had arisen in that appeal pertaining to a similar expenditure of approximately Rs 3.08 crores. While this Court, by an order dated 18.08.2008 admitted the appeal on certain other questions, by the same order, this Court was of the view that this issue did not raise any substantial question of law. Since this is the only issue raised in the present appeal, following the order



passed by us on 18.08.2008, we hold that no substantial question of law arises for our consideration.

The appeal is dismissed.

*Badar Durrez Ahmed*  
BADAR DURREZ AHMED, J

*Rajiv Shakti*  
RAJIV SHAKDHER, J

October 01, 2008  
SR