

**THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 23.10.2008

+ **ITA 310/2008**

**COMMISSIONER OF INCOME TAX  
DELHI- XVII**

... Appellant

- versus -

**SEAGRAM MANUFACTURING (PVT.) LTD** ... Respondent

**Advocates who appeared in this case:**

For the Appellant : Mr R. D. Jolly

For the Respondent : Mr Deepak Chopra

**CORAM:-**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

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

**BADAR DURREZ AHMED, J (ORAL)**

1. The revenue is aggrieved by the order dated 24.08.2007 passed by the Income Tax Appellate Tribunal in ITA 4390/Del/2004 relating to the assessment year 2003-04.

2. The sole issue for consideration is whether the transactions between the assessee and its suppliers are in the nature of works contract or sale of goods simplicitor. This issue arises in the backdrop



as the 'said Act'). If the nature of the transaction is that of a works contract, the tax would have had to be deducted at source under Section 194 C of the said Act. Since the assessee did not do so, it would then be an assessee-in-default in view of the provisions of Section 201 (1) of the said Act and would also be liable to pay interest under Section 201(1A) thereof. We note that the Commissioner of Income Tax (Appeals) as well as the Tribunal have both returned findings of fact to the effect that the dealings between the assessee and its suppliers were on principal to principal basis and did not amount to transactions in the nature of works contract.

3. The Tribunal also noted that the present case was predominantly one of a contract of sale of packing material and was distinguishable from the facts of the decision of the Supreme Court in the case of *State of Tamil Nadu v. Anandam Viswanathan: (1989) 73 STC 1 (SC)*. Thus, on facts, the Tribunal has concluded that the provisions of Section 194 C would not be applicable because the transactions were not in the nature of works contract. We also have support of the similar decisions in the case of *CIT v. Dabur India Ltd: 283 ITR 197 (Delhi)* and *CIT v. Reebok India Company* (ITA No.1209/2006) decided on 31.07.2008.



4. No substantial question of law arises for our consideration.

The appeal is dismissed.

*Badar Durrez Ahmed*  
BADAR DURREZ AHMED, J

*Rajiv Shakdher*  
RAJIV SHAKDHER, J

October 23, 2008

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