



13

% 31.07.2008

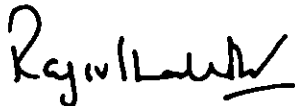
Present: Ms P. L. Bansal for the Appellant.  
Ms Poonam Ahuja for the Respondent.

+ ITA 76/2008

This appeal pertains to the financial year 2002-2003. The Tribunal has passed the impugned order on the basis of its earlier decisions in the case of Dex Travel P. Limited.

Appeals from the orders passed in Dex Travel had been preferred before this Court by the revenue being ITA No. 922/2006 and ITA No. 967/2006. After discussing the matter on merits, this Court came to the conclusion that there was no error in the decision of the Tribunal and that the issue was a debatable one. The Court came to the conclusion that there was sufficient and reasonable cause in terms of Section 273B of the Income Tax Act, 1961 for the assessee for not deducting the tax at source. Consequently, this Court was of the view that no substantial question of law arises. Following the said decision, we are also of the same view. This appeal is dismissed.

  
BADAR DURREZ AHMED, J

  
RAJIV SHAKDHER, J

July 31, 2008  
SR



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

24.

+

ITA No. 967 of 2006

COMMISSIONER OF INCOME TAX TDS

..... Appellant

Through Ms. P.L.Bansal, Advocate.

versus

M/S DEX TRAVEL P.LTD.

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S. MURALIDHAR

ORDER

05.10.2007

%

For Private Use  
Examiner Judicial Department  
High Court of Delhi

In this appeal under Section 260 A of the Income Tax Act, 1961 ('the Act') the Revenue aggrieved by an order dated nil October, 2005 passed by the Income Tax Appellate Tribunal ('Tribunal'), Delhi Bench "G", New Delhi in ITA Nos.3829 & 3838/Del/2004 relevant for the Financial Years 2001-02 and 2002-03 respectively. The present appeal is however directed against the decision rendered in ITA No. 3838/Del/2004 relevant for the Financial Year 2001-02.

The Assessee is a travel agent for various airlines. It has in turn engaged



agents to sell the air tickets of these airlines. During the relevant financial year, the Assessee deducted TDS on the commission paid by it to its agents. However, the Assessee did not deduct any TDS while passing on to its agents the discount received by it from the different airlines or on the payment of a special commission to its agents. According to the Assessing Officer, the Assessee had violated the provisions of Section 194 H of the Act and therefore was liable to be penalised under Section 271 C of the Act. The Commissioner of Income Tax (Appeals) ['CIT(A)'] however reversed the decision of the Assessing Officer and cancelled the penalty.

According to the Assessee, the issue whether it was required to deduct TDS on the discount/special commission paid to its agents was debateable. It obtained the opinion of some experts including the former Chairman of CBDT, a senior Advocate and a Chartered Accountant to the effect that no tax was deductible at source from the discounts and special commission offered by the Assessee to its agents. Accepting this explanation, the Tribunal concurred with

**ATTESTED**

S

Examiner Judicial Department  
High Court of Delhi



the view of the CIT(A) that penalty ought not to be levied on the Assess accordingly dismissed the Revenue's appeal.

Having heard learned counsel for the parties, we do not find any error in the view taken by the Tribunal. It is not disputed that the Assessee had taken the opinion of some experts who had advised that tax was not required to be deducted at source. The issue was a debatable one. We are of the opinion that there was sufficient and reasonable cause in terms of Section 273 B of the Act for the Assessee not deducting the TDS.

No substantial question of law arises.

Dismissed.

**MADAN B. LOKUR, J**

**S. MURALIDHAR, J**

**OCTOBER 05, 2007**

dn

ITA No. 967 of 2006

page 3/3

**Certified to be True Copy**