



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

% Judgment delivered on : 03.12.2008

+ **ITA 17/2008**

COMMISSIONER OF INCOME TAX DELHI-II

....APPELLANT

- versus -

METZELER AUTOMOTIVE PROFILES INDIA LTD

..... RESPONDENT

Advocates who appeared in this case:

For the Appellant : Mr. R D Jolly with Mr Paras Chaudhry
For the Respondent : Mr P N Monga

CORAM :-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE RAJIV SHAKDHER

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

BADAR DURREZ AHMED, J (ORAL)

1. This appeal is directed against the Tribunal's order dated 29.9.2006 pertaining to the assessment year 1996-97. The issue sought to be raised is whether the royalty amount paid in lieu of technical know-how given to



the foreign collaborator amounts to revenue or capital expenditure. The Tribunal held the same to be of a revenue nature. The Tribunal applied the ratio of the Supreme Court decision in *CIT vs Ciba India Ltd: 69 ITR 692*. The Tribunal also noted that with reference to the same agreement the department had allowed the expenditure in the preceding and subsequent years and, therefore, following the principle of consistency also, the same treatment ought to be given in the current year. We see no infirmity in the order passed by the Tribunal. No substantial question of law arises for our consideration. The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

December 03, 2008
mb