



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

% Judgment delivered on : 03.12.2008
+ **ITA 553/2006**

**COMMISSIONER OF INCOME TAX DELHI-VII, NEW
DELHI** **....APPELLANT**

- versus -

M/S INTRA PORT INDIA **..... RESPONDENT**

Advocates who appeared in this case:

For the Appellant : Ms Prem Lata Bansal with Mr Mohan Prasad
Gupta & Mr Sanjeev Rajpal
For the Respondent : Dr Rakesh Gupta, Ms Poonam Ahuja & Ms
Aarti Saini

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)

After hearing counsel for the parties, it is apparent that the issue sought to be raised in the present appeal is covered in favour of the Revenue and against the assessee, by virtue of the decision of this court in the case of *CIT v. Shri Ram Honda Power Equip*



(2007) 289 ITR 475. Consequently the Revenue's appeal on this ground is allowed and the impugned order to that extent is set aside.

We may note that in *Shri Ram Honda Power Equip (supra)*, this

Court had made the following observation and direction:-

“We are, therefore, of the view that where surplus funds are parked with the bank and interest is earned thereon it can only be categorized as income from other sources. This receipt merits separate treatment under section 56 of the Act which is outside the ring of profit and gains from business and profession. It goes entirely out of the reckoning for the purposes of section 80HHC. To give effect to this position, the Assessing Officer while computing profits of the export business will have to remove from the debit side of the profit and loss account the corresponding interest expenditure that has been “laid out” to earn such income from other sources. Otherwise this will depress the profits by an amount which is out of the reckoning of section 80HHC, a consequence not intended to be brought about.”

The same direction would apply in this case also.

The appeal stands disposed of.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

December 03, 2008

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