



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

% Judgment delivered on 12.12.2008

+ **ITA 552/2008**

**COMMISSIONER OF INCOME TAX
DELHI – VI**

... Appellant

- versus -

WEB COMMERCE (INDIA) PVT. LTD

... Respondent

Advocates who appeared in this case:

For the Appellant : Ms Prem Lata Bansal with Mr Sanjeev Rajpal,
Mr M P Gupta and Ms Anshul Sharma
For the Respondent : Mr K. R. Manjani

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. In the present appeal the appellant seeks to raise the question of interpretation with regard to the provisions of Section 10B (5) of the Income Tax Act, 1961 (hereinafter referred to as the 'said Act'). The said provision is virtually identical to the provisions of Section 80IA (7) as also 80HHB (3) (ia). It is also identical to the erstwhile



2. This Court has already interpreted the latter provisions and has held the same to be directory and not mandatory. The contention of the revenue was that unless and until the audit report is filed along with the return, the benefit of Section 10A cannot be available to the assessee. Recently, we have considered the identical provisions of Section 80IA (7) in the case of *CIT v. Contimeters Electricals Private Limited: ITA 1366/2008* decided on 02.12.2008 and held that as long as the audit report is filed before the framing of the assessment, the provisions of Section 80IA (7) would be complied with inasmuch as the same are directory and not mandatory. A similar view would have to be taken in the present case also inasmuch as the provisions are the same. Consequently, we do not find any fault with the conclusions arrived at by the Tribunal. No substantial question of law arises for our consideration.

The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

December 12, 2008
SR