



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

Judgment delivered on : 13.04.2009

ITA No. 884/2006

COMMISSIONER OF INCOME TAX
NEW DELHI

..... Appellant

Through: Ms Prem Lata Bansal & Ms Anshul
Sharma, Advocates

versus

FRANCE AIR PVT. LTD.

..... Respondent

Through: Mr U.A. Rana & Mr Abhishek K. Rao,
Advocates

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 ?

RAJIV SHAKDHER, J

1. In this case the Revenue has preferred an appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') against judgment dated 16.09.2005 passed by the Income Tax Appellate Tribunal (hereinafter referred to as the 'Tribunal') in TDS no. 34(Del)2004 pertaining to assessment year 2002-03.

2. The assessee herein is a General Sales Agent (in short 'GSA') for

Air France Ltd. The assessee was passing on discounted fare tickets to



its IATA agents. The Assessing Officer found that the assessee-GSA had failed to deduct Rs 1,32,188/- in respect of supplementary commission to the tune of Rs 48,58,566/- paid by the assessee to its agents. It is apparent from the Tribunal's order that the Assessing Officer had noted the fact that the assessee had 55 such agents conducting its business and that the assessee had obtained a certificate under Section 197 of the Act for deduction of tax at a lower rate in respect of 25 such agents. However, even after giving effect to the said certificate issued in favour of the assessee, there was a short-deduction of tax at source by the assessee to the tune of Rs 1,32,188/-.

3. The assessee being aggrieved by the order of the Assessing Officer preferred an appeal to the Commissioner of Income Tax(Appeals) [hereinafter referred to as the 'CIT(A)'], who sustained the order of the Assessing Officer.

4. In a further appeal to the Tribunal the assessee placed reliance on the judgment dated 19.10.2004 passed in TDS No. 58(Del)03 titled 'CIT vs Singapore Airlines. The Tribunal passed the impugned judgment by basing it substantially on its own judgment in the case of Singapore Airlines (supra). The necessary consequence was that it allowed the appeal of the assessee.



5. In view of our judgment delivered today i.e., 13.04.2009 in a batch of appeals, wherein the lead case, is entitled as CIT vs Singapore Airlines; being ITA No. 306/2005, the appeal of the Revenue has been allowed. Therefore, this appeal has to be allowed. It is ordered accordingly, with a direction that the Tribunal will re-examine the issue afresh.

RAJIV SHAKDHER, J

April 13, 2009/kk

BADAR DURREZ AHMED, J