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% 16.12.2009

Present: Ms. Prem Lata Bansal, Advocate for the Appellant.
None for the Respondent.

+ CM 17749/2009 (Condonation of Delay)

For the reasons stated in the application the delay is condoned.

CM stands disposed of.

ITA No.1340/2009

* Additions made by the Assessing Officer in the assessment order passed by him and dealt by the appellate authorities are as under:

(i) *Addition of Rs.23,92,000/- under Section 41(1) of the Act:* This was on the ground that the assessee had not given confirmation letters from most of the creditors except six parties which he provided before Commissioner of Income Tax (Appeals) [CIT (A)]. CIT (A) had called for remand report from the Assessing Officer and the Assessing Officer had offered comments on 12th December, 2005. The CIT (A) found that the Assessing Officer had not controverted the contention of the assessee company and thus accepting the additional evidence, he deleted the addition, which order has been upheld by the Income Tax Appellate Tribunal (ITAT). It is not in dispute that on the basis of the said confirmation, this addition became unwarranted and had to be disallowed.

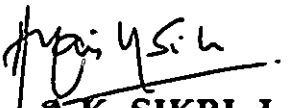


(ii) *Addition of Rs.77.60 lacs in respect of sa. expenses disallowed by the Assessing Officer.* That the assessee had shown a total salary for the year under consideration at Rs.1,55,18,822/- and in support of it filed copy of Form No.16 indicating the names and addresses of the persons and the Tribunal has recorded a finding of fact that in the previous order total amount in respect of salaries paid to the employees was claimed and allowed at Rs.1,39,05,000/-. The higher amount claimed in this year was on account of grant of certain increments etc. In these circumstances, CIT (A) was right in deleting the said addition, more so, when as per Form No.16 tax at source was deducted.

(iii) Third addition is on account of interest paid. This is admittedly covered by the decision of this Court in *CIT vs. Dalmia Brothers-164 Taxman 63*.

We are, therefore, of the opinion that no question of law arises.

Dismissed.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

December 16, 2009
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