



* **HIGH COURT OF DELHI : NEW DELHI**

+ **ITA No. 571 of 2010**

% **Decided on: June 03, 2010**

Commissioner of Income Tax-IV
Central Revenue Building
New Delhi.

..... Petitioner

Through: Mr.Sanjeev Sabharwal, Adv.

Versus

Delhi Extrusion (P) Ltd.
A-173, Ekta Enclave
Peera Gahri
New Delhi.

..... Respondent

Through: Mr. Prakash Kumar, Adv.

Coram:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR

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

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MADAN B. LOKUR, J. (ORAL)

The Revenue is aggrieved by an order dated 17th June, 2009 passed by the Income Tax Appellate Tribunal, Delhi Bench 'F' in ITA No.1397/Del/2009 relevant for the Assessment Year 2003-2004.

2. The short question of law urged by the Revenue is that both the Commissioner of Income Tax (Appeals) [for short 'CIT(A)'] as well as the Income Tax Appellate Tribunal (for short the Tribunal) erred in deleting the addition of Rs.25 lakhs as income from undisclosed sources.

3. It appears that the Assessee had credited in its books of accounts an amount of Rs.25 lakhs as share application money. According to the Assessing Officer, the Assessee was unable to prove the creditworthiness of the applicants and, therefore, the amount was treated as the undisclosed income of the Assessee.

4. On appeal, the CIT(A) look into various documents submitted by the Assessee including affidavits, share allotment letters, share applications, copy of income tax return, ledger account etc. In view of these documents in support of the transactions, the CIT(A) accepted the contention of the Assessee after relying upon various decisions of

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including the decision of the Supreme Court in *Commissioner of Income Tax v. Steller Investment Ltd., (2001) 251 ITR 263(SC)*.

5. The Tribunal upheld the view of the CIT(A) and also noted the decision rendered by the Supreme Court in *CIT V. Lovely Exports (P) Ltd., (2008) 216 CTR 195*. In that case, it was observed as follows:-

“Can the amount of share money be regarded as undisclosed income under s. 68 of IT Act, 1961? We find no merit in this Special Leave Petition for the simple reason that if the share application money is received by the assessee company from alleged bogus shareholders, whose names are given to the AO, then the Department is free to proceed to reopen their individual assessments in accordance with law.

Subject to the above, Special Leave Petition is dismissed.”

6. In the case before us, there is enough material on record to show that the amount of Rs.25 lakhs cannot be said to be the undisclosed income of the Assessee. The Assessee had produced adequate and sufficient evidence in the form of PAN of share holders, copy of their income tax return and details of shares allotted etc.

7. In view of the concurrent finding rendered by the CIT(A) as well as the Tribunal, no substantial question of law arises for our consideration.

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8. The appeal is accordingly dismissed.

Madan Lokur
MADAN B. LOKUR, J

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CHIEF JUSTICE

May 31, 2010

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