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

+ ITA 799/2010

COMMISSIONER OF INCOME TAX Appellant
Through: Ms. Prem Lata Bansal, Advocate.

versus

ANUJ GUPTA Respondent
Through: None.**CORAM:**
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN**ORDER**
% **12.07.2010**

In this appeal preferred under Section 260A of the Income Tax Act, 1961 justifiability of the order passed by the Income Tax Appellate Tribunal (for short, "the tribunal") in ITA No. 335/Del/2007 pertaining to the assessment year 2002-2003 whereby the tribunal has concurred with the order passed by the CIT(A) whereby the First Appellate Authority deleted Rs.28,64,000/-.



The facts in brief are that the assessee which was engaged in the business of providing services towards entertainment games, catering, venue charges and other services was asked to produce the books of account and vouchers with regard to the details of the parties and the Assessing Officer noticed that the cash receipts were unverifiable and presumed that assessee must have been making advance booking and also keeping complete records of the persons who wanted to book the premises for parties. It was also observed by the Assessing Officer that assessee was trying to misguide by combining the day to day activities with the party account and is also changing its statement. It is worth noting that the Assessing Officer came to hold that the assessee had hosted 358 parties on that venue and applied the charges of Rs.20,000/- for each party and on that basis he worked out the amount.

Being dissatisfied, the appeal was preferred before the tribunal and the Appellate tribunal on the basis of appreciation of facts brought on record by a detailed order expressed the view as follows:-

“Keeping in view the facts and circumstances of the case and the fact that there was substantial increase in gross receipts during the year under consideration as



compared to past two assessment years and as the g.p. was about 40%, it would be fair and reasonable if the venue charges receipt for the year under consideration is estimated at Rs.12,000/- per party. Thus for 358 parties the receipt is estimated at Rs.42,96,000/- and accordingly addition to the extent of Rs.3,82,889/- is hereby upheld (12 x 358 = Rs.42,96,000 (-) Rs.39,13,111/-) and balance of Rs.28,64,000/- hereby deleted."

The tribunal referred to the order passed by CIT(A) and came to hold that the view expressed by the first Appellate Authority that the rate fixed by the appellate authority at Rs.12,000/- was reasonable.

Looking to the facts and circumstances of the case and in view of the aforesaid factual matrix, we are of the considered opinion, that the view expressed by the tribunal by which it has concurred with the finding recorded by the CIT(A) is absolutely reasonable and does not give rise to any substantial question of law.

Thus, the inevitable result is dismissal of appeal in limine which we direct.


CHIEF JUSTICE


MANMOHAN, J

JULY 12, 2010

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