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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 931/2010

COMMISSIONER OF
INCOME TAX

Through

..... Appellant

Ms. Prem Lata Bansal,
Advocate

versus

ASIAN TECHNOCRATES P.LTD.

Through

..... Respondent

Ms. Poonam Ahiya with
Mr. Shashank Agarwal,
Advocates

AND

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ITA 932/2010

COMMISSIONER OF INCOME
TAX DELHI I

Through

..... Appellant

Ms. Prem Lata Bansal,
Advocate

versus

ASIAN TECHNOCRATES P.LTD.

Through

..... Respondent

Ms. Poonam Ahiya with
Mr. Shashank Agarwal,
Advocates

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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26.07.2010



CM 12545/2010 in ITA 932/2010

Allowed, subject to all just exceptions.

CM 12544/2010 in ITA 931/2010 and CM 12546/2010 in ITA 932/2010

These are the application for condonation of delay in refiling of appeals.

Having heard Ms. Prem Lata Bansal, learned counsel for Revenue and Ms. Poonam Ahiya, learned counsel for assessee and regard being had to the facts and circumstances, we are of the considered opinion that there is sufficient cause warranting condonation of delay and accordingly, delay in refiling the appeals stands condoned.

Accordingly, applications stand disposed of.

ITAs 931/2010 and 932/2010

In these appeals preferred under Section 260A of the Income Tax Act, 1961 the only issue that emerges for consideration is whether the Income Tax Appellate Tribunal (for short "tribunal") is justified in dislodging the direction as regard the imposition of interest, a notional one.

On a perusal of the order passed by the tribunal it transpires that



it had placed reliance on the decision rendered in *High Way Construction Co. Pvt. Ltd. Vs. Commissioner of Income Tax, (1993) 199 ITR 702 (Gauhati)* and *B and A Plantations and Industries Ltd. Vs. Commissioner of Income Tax, (2000) 242 ITR 22 (Gauhati)* wherein the High Court expressed the view that there is no provision in the Income Tax Act empowering the income tax authorities to include in the income interest which was not due or not collected.

In the case at hand, nothing has been brought on record that the assessee had bargained for interest or collected the interest. When the interest was not due or collected, we are afraid, the proposition canvassed by the Revenue would confer any kind of assistance. In our considered opinion, the view expressed by the tribunal is absolutely tenable and does not warrant interference. Resultantly, the appeal is dismissed *in limine*.


CHIEF JUSTICE


MANMOHAN, J

JULY 26, 2010
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