



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 28.04.2010

+ **ITA 1239/2009**

COMMISSIONER OF INCOME TAX Appellant

versus

INTEX TECHNOLOGY INDIA LTD Respondent
AND

+ **ITA 1245/2009**

COMMISSIONER OF INCOME TAX Appellant

versus

NARENDER BANSAL Respondent

Advocates who appeared in this case:-

For the Appellant : Ms Suruchi Aggarwal

For the Respondent : Mr Amol Sinha

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE V.K. JAIN

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

BADAR DURREZ AHMED, J (ORAL)

CM 16767/2009 & 16772/2009

We have heard the counsel for the parties. The delay is condoned.

These applications stand disposed of.

ITA 1239/2009 & ITA 1245/2009

1. These two appeals preferred by the revenue arise out of the



Tribunal passed in respect of the block period 01.04.1990 to 25.05.2000 and arise out of IT (SS) A No. 209/Del/2003 and IT (SS) A No. 211/Del/2003.

2. Additions have been made by the Assessing Officer to the extent of Rs 83,94,000/-. The said additions were made by the Assessing Officer to the disclosed income of one of the directors, namely, Mr Narender Bansal on substantive basis in the block assessment completed under Section 158 BC of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act') by the Assessing Officer's order dated 31.05.2002. The said amount was also added by the Assessing Officer to the disclosed income of the other assessee (Intex Technology India Ltd) on protective basis in the assessment completed in respect of the very same block under Section 158 BC of the said Act.

3. The Commissioner of Income Tax (Appeals) deleted the additions. The addition of Rs 83,94,000/- comprises of two components. One component was on account of Rs 79 lacs which was received by the company Intex Technology India Ltd as share application money and the other was of an amount of Rs 4,64,000/- on account of commission allegedly paid to one Mr Dinesh Kumar Sharma for allegedly obtaining accommodation entries as a corollary to the said share application money.

4. The Commissioner of Income Tax (Appeals), as noted above, deleted the said additions. Being aggrieved, the revenue preferred appeals before the Income Tax Appellate Tribunal. The Tribunal observed that only one issue was involved in both the appeals relating to the addition made



the same was treated as unexplained. However, according to the Tribunal, the issue stood covered in favour of the assessee in view of the Supreme Court decision in the case of **CIT v. Lovely Exports Private Limited: 216 CTR 195**, where it has been held that if the share application money is received by the assessee company from alleged bogus shareholders whose names are given to the Assessing Officer, then the department is free to proceed against the said shareholders in accordance with law. The Tribunal held that the amount of share capital received by the assessee cannot be regarded as undisclosed income of the assessee particularly when the identity and the creditworthiness of the applicants have been established. There is a finding in the order passed by the Commissioner of Income Tax (Appeals) that all the 16 parties, who had applied for the shares and had made the payments towards share capital, had been summoned by the Assessing Officer and that the said parties had confirmed their identity, creditworthiness and genuineness in respect of the said transactions.

5. In view of the findings of fact, the Tribunal has arrived at the correct conclusion. We are of the view that no substantial question of law arises for our consideration.

The appeals are dismissed.

BADAR DURREZ AHMED, J

V.K. JAIN, J

APRIL 28, 2010
SR