



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 30.04.2010

+ **ITA 378/2010**

COMMISSIONER OF INCOME TAX Appellant

- versus -

JAI MAA BHAWANI OVERSEAS PVT LTD Respondent

Advocates who appeared in this case:-

For the Appellant : Mr Sanjeev Sabharwal
For the Respondent : Mr Rani Kiyala for Mr Rakesh Gupta

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)

1. This appeal is directed against the order dated 03.07.2009 passed by the Income Tax Appellate Tribunal in relation to the assessment year 2001-2002.

2. The Assessing Officer had made an addition of Rs 42,60,000/- as unexplained income of the assessee under Section 68 of the Income Tax Act, 1961. The said sum had been received from 23 different companies by way of share application money.

3. The Commissioner of Income Tax (Appeals) as well as the



decisions of this Court in *CIT v. Divine Leasing and Finance Limited: (2007) 158 Taxman 440 (Del)* and *CIT v. Lovely Exports (P) Limited: 216 CTR 196*. The Tribunal observed that the assessee in the present case has furnished all the evidence that was expected of it. The share applicants had been identified and evidence in the form of share application as well as the balance sheet revealed such investment in the shares of the assessee company. This, according to the Income Tax Appellate Tribunal, established that the shares were applied for by these companies and the shares were also allotted on the basis of these applications.

4. We may also observe that the Commissioner of Income Tax (Appeals) noted that the summons had been issued to the share applicants and had been responded to by sending replies along with supporting evidence except in a few cases. In those cases where there was no response to the summons, it had been ascertained that the company existed in the record of the Registrar of Companies. The Commissioner of Income Tax (Appeals) also observed that the share application form, share allotment letter and the bank statement clearly established the identity of M/s Rubicon Associates Private Limited, which was one of the entities which did not respond to the summons issued by the Assessing Officer. Even the principal officer of the said company, Mr Rajat Bansal attended the proceedings before the Investigation Wing of the department. In respect of another such company, that is, Reena Oil Industry Private Limited, identical



had also not responded to the summons issued but had subsequently sent a confirmation, proof of allotment and bank statement as well as the share application form. Consequently, the Commissioner of Income Tax (Appeals) came to the conclusion that the identity of all the share applicants stood established. It is in these circumstances that the Income Tax Appellate Tribunal confirmed the decision of the Commissioner of Income Tax (Appeals).

5. We also find no infirmity in such conclusions arrived at by the lower authorities. In any event, these are findings of fact and no perversity has been pointed out by the learned counsel for the appellant. No substantial question of law arises for our consideration.

The appeal is dismissed.

BADAR DURREZ AHMED, J

V.K. JAIN, J

APRIL 30, 2010
SR