



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 18.01.2010

+ **ITA Nos. 1035/2007, 147/2009 & 152/2009**

GAUTAM CABLE INDUSTRIES ... Appellant

- versus -

**DY. COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE 9** ... Respondent

Advocates who appeared in this case:

For the Appellant : Mr K.R. Manjani with Mr Madhu Sudan Sahni
For the Respondent : Ms Prem Lata Bansal with Ms Anshul Sharma

CORAM:-

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

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 No.1569/2008 in ITA No.147/2008, 2601/2008 in ITA 152/2008

Delay in filing the appeal is condoned.

ITA Nos. 1035/2007, 147/2009 & 152/2009

1. These three appeals arise out of the common order dated 02.06.2006 passed by the Income-tax Appellate Tribunal in ITA Nos. 40, 1391 and 3319/Del/2001-02 pertaining to the assessment years 1997-98,



impugned order passed by the Tribunal in view of the fact that the Tribunal has set aside the order of the Commissioner of Income-Tax (Appeals) and restored the order of the Assessing Officer who disallowed the claim of interest payment made by the assessee to the bank in respect of the borrowed funds on the ground that the said borrowed funds were diverted to sister concerns.

2. The Assessing Officer as well as the Income-tax Appellate Tribunal came to the definite conclusion that there was a diversion of funds which had been borrowed by the assessee from banks to the sister concerns, namely, Govan Industrial Corporation and Anilmaa Association, which were not covered within the scope of the commercial expediency or business exigencies of the assessee. A finding was also recorded that the Assessing Officer had examined not only the books of the assessee, but also the assessment orders and other records of the sister concerns, namely, Govan Industrial Corporation and Anilmaa Association. After such an examination, the Assessing Officer had come to a definite finding that the group concerns had not utilized the funds for the purposes of their business, but had instead diverted the same further to individuals / family members of the group.

3. We have seen the impugned order as well as have heard the counsel for the parties and are of the view that the findings returned by the



question of law which arises for our consideration. Consequently, we refrain from admitting these appeals. The appeals are dismissed.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

JANUARY 18, 2010

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