



THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on : 18.05.2010

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ITA 575/2010**COMMISSIONER OF INCOME TAX****... Appellant****- versus -****MASTER INDIA PVT LTD****... Respondent****Advocates who appeared in this case:**

For the Appellant : Ms Prem Lata Bansal with Ms Anshul Sharma

For the Respondent : None

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 03.04.2009 passed by the Income Tax Appellate Tribunal in Appeal No.611/Del/2008 relating to the assessment year 2001-2002. The impugned order arose out of the penalty proceedings under Section 271(1)(c) of the Income Tax Act, 1961 by the Assessing Officer who ultimately imposed penalty of Rs 4,61,913/- on the assessee for allegedly furnishing inaccurate particulars of income.

2. The assessee had received interest of Rs 18,62,538/- on Fixed Deposits and had also received certain other receipts totalling

Rs 21,24,228/-. The assessee had also received interest of Rs 1,12,538/- on Fixed Deposits and had also received certain other receipts totalling



and were treated by the Assessing Officer as the assessee's income from other sources. The eligible profits for computation of relief under Section 80HHD of the said Act were thereby reduced. The Assessing Officer computed the relief under Section 80HHD at Rs 42,90,282/- against the amount of Rs 53,92,895/- as claimed by the assessee. This resulted in excess amount of deduction on the part of the assessee under Section 80HHD at Rs 11,02,613/-. It was on the basis of this excess claim that the penalty of Rs 4,61,913/- was imposed on the assessee.

3. The Commissioner of Income Tax deleted the penalty and the said deletion was confirmed by Income Tax Appellate Tribunal. The Tribunal took the view that the assessee did not furnish any inaccurate particulars of income nor did the assessee conceal any part of its income. The question with regard to the claim of deduction under Section 80HHD was, at that point of time, debatable. Consequently, the Tribunal held that this was not a case where imposition of penalty under Section 271(1)(c) of the said Act could be justified.

4. We find no infirmity in the reasoning adopted by the Tribunal nor has any perversity been pointed out in the findings of fact.

The appeal is dismissed.

BADAR DURREZ AHMED, J

V.K. JAIN, J

MAY 18, 2010

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