



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 9th February, 2010

+ **ITA 124/2010**

**THE COMMISSIONER OF INCOME TAX
CENTRAL REVENUE BUILDING
NEW DELHI**

..... Appellant

Through: Mr Sanjeev Sabharwal

versus

**MEDSHAVE HEALTH CARE LTD
BEHIND GOLF COURSE
NEW DELHI**

..... Respondent

Through: None

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 the Digest?

SIDDHARTH MRIDUL, J (ORAL)

1. This appeal has been preferred by the Revenue against the order dated 19th June, 2009 in ITA No.1450/Del./2006 for the assessment year 2002-03.

2. The assessee company during the relevant year was engaged in the sale and purchase of shares held as investment. According to the assessee it had sold shares of Vikas Fitting Ltd to Ramesh Chand Industries Ltd and shares of M/s Ocean Infrastructure Ltd to M/s Silver Streaks Trading Pvt.



the assessee and were reflected in the audited financial statements. According to the assessee, since M/s Ramesh Chand Industries Ltd was having a current account with M/s Silver Streaks Trading Pvt. Ltd., both companies agreed to adjust the amount internally. As a result of this adjustment, the entire amount towards sale of the shares became payable to the assessee by M/s Silver Streaks Trading Pvt. Ltd.

3. The Assessing Officer, however, treated the amounts as unexplained cash credit and, therefore, added the amount to the income of the assessee company as unexplained cash credit. The assessee took this matter up in appeal before the Commissioner of Income Tax (Appeals), who deleted the addition made by the Assessing Officer.

4. Aggrieved by the order of the Commissioner of Income Tax (Appeals), the Revenue filed an appeal before the Income Tax Appellate Tribunal, which dismissed the appeal of the Revenue by the impugned order dated 19th June, 2009.

5. The Tribunal noticed that the assessee had filed the confirmation letter of M/s Ramesh Chand Industries Ltd before the Commissioner of Income Tax (Appeals). Further, the assessee had produced a copy of the ledger account in the case of M/s Ramesh Chand Industries Ltd in the books of M/s Silver Streaks Trading Pvt. Ltd before the Assessing Officer in remand proceedings. Furthermore, it was noticed by the Tribunal that the sale of shares to M/s Silver Streaks Trading Pvt. Ltd was reflected in the books of



the assessee and that these amounts were also shown as advance in the balance sheet of the assessee company and as a credit in the balance of M/s Silver Streaks Trading Pvt. Ltd as on the 31st March, 2003. Concerning the payment made by M/s Silver Streaks Trading Pvt Ltd., it was found that the same was made in October-November, 2003 by Account Payee cheques and a certificate from Corporate Bank in this regard was produced before the Assessing Officer in the remand proceedings, which was forwarded to the Commissioner of Income Tax (Appeals) by the Assessing Officer. Therefore, the Tribunal came to the conclusion that it was clear that the assessee company had been holding the shares which were sold by it during the year and that it was on this basis that the learned Commissioner of Income Tax (Appeals) had arrived at a conclusion that there was no reason to hold that the assessee company did not own these shares. Therefore, the Tribunal observed that there was no reason to hold these transactions to be sham transactions or the credits to be unexplained cash credits.

6. The findings arrived at by the Tribunal are pure findings of fact and we do not find any error in them so as to warrant interference by this Court. No substantial question of law arises for our consideration and consequently the appeal is dismissed.

SIDDHARTH MRIDUL, J

BADAR DURREZ AHMED, J