



§~20 & 21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 1245/2011 & ITA 1246/2011

DIRECTOR OF INCOME TAX Appellant
Through : Ms Anusha Singh

versus

ASIA SATELLITE TELECOMMUNICATION CO LTD Respondent
Through : Mr S. Ganesh, Sr Advocate with
Ms Anuradha Dutt, Mr Anish Kapoor,
Ms Ekta Kapil, Mr Pawan Sharma and
Ms Anubha Singh

CORAM:
HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MS JUSTICE VEENA BIRBAL

ORDER
% **20.12.2011**

These appeals have been preferred by the revenue against the common judgment and order passed by the Income Tax Appellate Tribunal on 24.05.2011 in ITA Nos. 5004-5005/Del/2010 pertaining to the assessment years 2006-2007 and 2007-2008 respectively. The Income Tax Appellate Tribunal has decided in favour of the assessee by following the decision of this Court in the assessee's own case. The Tribunal came to the conclusion that the assessee's activities do not fall within the scope of the provisions of Section 9(1)(i) of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act') and that, therefore, the receipts of the assessee from its customers were not taxable in India.

The revenue is aggrieved by the decision of the Tribunal. However, in view of the clear decision delivered by this Court in the case of the assessee itself in Asia Satellite Telecommunication Company Limited v. Director of Income Tax : (2011)



332 ITR 340 (Delhi), these appeals merit dismissal. In the said decision of this Court, the question of applicability of Section 9(1)(i) of the said Act had been considered in paragraphs 29 to 34 and this Court came to the conclusion that the said provision was not attracted in the case of the assessee. The said decision of this Court was rendered in respect of the assessee for the assessment year 1997-1998. The facts in respect of the assessment year 1997-1998 and the assessment years 2006-2007 and 2007-2008, with which we are concerned in the present appeals, are identical. The Tribunal had also decided in favour of the assessee on the issue of applicability of Section 9(1)(iva) of the said Act and also 9(1)(vi) of the said Act.

All the points sought to be raised in the present appeals stand covered by the decision of this Court in the case of the assessee itself in *Asia Satellite Telecommunication Company Limited v. Director of Income Tax (supra)* as also by another decision of this Court in the case of the assessee for assessment years 1998-1999 up to 2005-2006 in ITA Nos. 2028/2010 and other connected appeals decided on 10.03.2011.

As such, these appeals are dismissed.


BADAR DURREZ AHMED, J


VEENA BIRBAL, J

DECEMBER 20, 2011
SR