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% 01.09.2011

Present: Mr. Kamal Sawhney, Sr. Standing Counsel for the Appellant/Revenue.
Ms. Surekha Raman, Advocate for Respondent/Assessee.

+ITA No.2088/2010

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There is a minor error crept in the order passed by the Tribunal and the challenge to the same is made in the present appeal by the Revenue. One of the issues which arose before the Tribunal was as to whether the lease amount to the extent of ₹2,75,045/- paid by the assessee to the Noida Authority was revenue expenditure or it was to be amortized treating the same as capital expenditure. It was found that the Assessee had taken the land in question from Noida Authority with leasehold rights of 90 years and having regard to the provisions of Section 269 UA of the Income Tax Act, the Assessing Officer came to the conclusion that the Assessee was to be "deemed owner" of the aforesaid land and on this premise, he disallowed the aforesaid expenditure. CIT(A) upheld this order of the Assessing Officer. In further appeal preferred by the Assessee before the Tribunal, the issue is discussed at length by the Tribunal and ultimately the Tribunal concurred with the view taken by the AO as well as CIT(A). Because of that reason itself, the appeal of the assessee on this ground has been dismissed. However, in para 4 of the order passed by ITAT in para 4, the ITAT held:

"Thus it is held that the expenditure is revenue in nature".

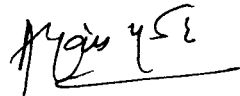
This is obviously a typographical mistake. As pointed out above, the Tribunal has categorically held that the expenditure was capital in nature and because of this reason, this ground raised by the assessee was even



dismissed, therefore, this position was accepted by learned counsel for the assessee as well. We thus substitute the aforesaid sentenced and the order passed by the Tribunal is modified to the extent:

"Thus, it is held that expenditure is capital in nature".

The appeal stands disposed of with above order.


A.K. SIKRI, J.

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INDERMEET KAUR, J.

SEPTEMBER 01, 2011

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