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% 28.07.2011

Present: Mr. Deepak Anand, Jr. Standing Counsel Advocate for the appellant/Income Tax Department.
Mr. Salil Kapoor with Mr. Sanat Kapoor and Mr. Ankit Gupta, Advocates for the respondent

+ ITA No.2090/2010

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The return filed by the assessee for the assessment year 1999-2000 declaring income @ Rs.1,22,460 was processed under Section 143(1) of the Income Tax Act (hereinafter referred to as "the Act"). However, subsequently, on the information received from the DIT(Inv.), New Delhi, to the fact that the assessee had accepted the following accommodation entries from M/s I.G. Properties (P) Ltd., M/s Parivartan Capital & Financial Services (P) Ltd. and from M/s Victoria (P) Ltd. in the garb of share capital, the notices were issued under Section 148 of the Act for the assessment year, the assessee filed the return, pursuant to said notices, declaring the same income as was originally written. The Assessing Officer passed the re-assessment order dated 23rd December 2006 making additions of Rs.31 lac on account of unexplained share capital including the capital subscribed by the aforesaid three applicants on the basis of which the assessment was reopened by giving reasons to believe for opening re-assessment. However, during the assessment proceedings, the Assessing Officer also made certain additions of the credits received from M/s Adhunik Niryat, M/s Mahadev Metals, M/s Royal International and M/s Single Finshare India Ltd. though on that basis the assessment was not reopened. The assessee filed an appeal



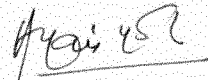
against these additions. CIT(A) confirmed the additions of Rs.31 lac which was the basis for reopening re-assessment. Insofar as other additions are concerned, CIT(A) deleted the same. In these circumstances, both the assessee as well as the Revenue preferred appeals against the orders of CIT(A). As far as appeal of the assessee is concerned, it was allowed by the ITAT thereby deleting the additions of Rs.31 lac as well. Against this order, no appeal was preferred by the Revenue. Thus, the reasons which persuaded the Assessing Officer to reopen the re-assessment proceedings and on the basis of which additions were made was not found valid or justifiable as those additions were deleted by the Tribunal.


Subsequently, an appeal preferred by the Revenue pertaining to the said additions made by the Assessing Officer which were not part of “reasons to believe” and which was deleted by CIT(A) came to be heard by the Tribunal and has been dismissed by the Tribunal vide impugned order dated 30th June, 2011. Against this order, the present appeal is preferred.

Since the grounds for reopening the reassessment do not exist any longer and no additions were ultimately made on that account, the additions in respect of other items which were not part of “reasons to believe” cannot be made. This issue has been decided by the High Court of Judicature at Bombay in **Commissioner of Income Tax v M/s Jet Airways (I) Pvt. Ltd.** vide judgment dated 12th April, 2010 in ITA Nos. 1714/2009 and 1526/2008. Recently, this Bench has also delivered the



judgment in case of **CIT v Ranbaxy** decided on 3rd June, 2011 agreeing with the aforesaid view taken by High Court of Judicature at Bombay. We thus find that no substantial question of law arises in this appeal. Dismissed.


A.K. SIKRI, J.


M.L. MEHTA, J.

July 28, 2011
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