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THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 13.09.2011

Judgment delivered on: 04.11.2011

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ITA No. 396/2010

COMMISSIONER OF INCOME TAX

..... APPELLANT

Vs

M/S AMWAY INDIA ENTERPRISES PVT. LTD.

..... RESPONDENT

Advocates who appeared in this case:

For the Appellant: Mr Abhishek Maratha and Ms. Anshul Sharma

For the Respondent: Mr M.S. Syali, Sr. Advocate with Ms Mahua Kalra, Ms. Husnal Syali and Mr. Rahul Sateerja

CORAM :-

HON'BLE MR JUSTICE SANJAY KISHAN KAUL**HON'BLE MR JUSTICE RAJIV SHAKDHER**

1. Whether the Reporters of local papers may be allowed to see the judgment ?
2. To be referred to Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

RAJIV SHAKDHER, J

1. The captioned appeal pertains to the assessment year 2004-2005. In this appeal, the following issue arises for consideration :-

Whether expenses incurred in the sum of Rs.31,98,134/- incurred on improvement of leasehold premises were in the nature of capital expenditure? If so, whether the Income Tax Appellate Tribunal (in short, the 'Tribunal') erred in



remanding the matter to the Assessing Officer for verification of the expenses incurred.

2. As regards this Issue the expenses incurred towards improvement of leasehold premises which were situated at Mumbai, Bangalore, Calcutta (now Kolkata) and Delhi were of the same nature as was claimed in the assessment year 2002-03 namely flooring, partition, wiring, false ceiling, roofing, air conditioning unit and duct, electric wiring, laying network for setting up computers and on purchase of furniture, however, there was an addition this year, namely creating workstations etc. The Tribunal followed its decision in assessee's own case and directed the assessing officer to allow the expenditure incurred on lease hold improvements, except on account of creating workstations etc., as revenue expenditure.

2.1 As regards to the expenditure incurred on creating workstations etc. the Tribunal noted that the expenditure incurred were for fixed capital assets and, therefore, in the nature of capital rather than in the nature of current repair or for renovating the existing old assets. Since the break up and detail of expenses on account of creating new workstations were not furnished, the Tribunal restored the issue qua creation of workstation etc. to the file of the assessing officer for deciding it afresh as per principle laid down in ***Bigjo's India Ltd. Vs. CIT, [2007] 293 ITR 170 (Delhi).***



3. We find this issue is covered by our judgment in the case of Commissioner Of Income Tax Vs M/s Amway India Enterprises in ITA Nos. 1344/2009 and 1363/2009.

4. In view of the above, no question of law arise for our consideration and accordingly, the appeal is dismissed. There shall, however, be no order as to costs.

RAJIV SHAKDHER, J

SANJAY KISHAN KAUL, J

NOVEMBER 04, 2011
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