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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. 484/2011

COMMISSIONER OF INCOME TAX

..... APPELLANT

Vs

M/S AMWAY INDIA ENTERPRISES

..... 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 2003-2004. In this appeal, the following issues arise for consideration :-

- (i). Whether expenses incurred by the assessee in the sum of Rs.13,55,597/- on purchase of software application were in the nature of capital expenses.
- (ii). Whether expenses incurred in the sum of Rs.1,47,71,172/- 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. In so far as Issue no.(i) is concerned, we have noticed that an expenditure of Rs.13,55,597/- was incurred on account of software license purchased.
3. The Tribunal remanded this issue for decision by the Assessing Officer in terms of the judgment of the Special Bench. In our opinion, the matter now stands concluded by our judgment in the case of _Commissioner of Income Tax Vs M/s Asahi India Safety Glass Ltd. in ITA Nos. 1110/2006 & 1111/2006.
4. As regards Issue no.(ii), the expenses incurred towards improvement of leasehold premises which were situated at Mumbai, Calcutta (now Kolkata) and Bangalore were incurred on the following items :-

“flooring work, false ceiling, erection of temporary partition, painting work and change of sanitary fittings, etc.”
5. We find even 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.



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

RAJIV SHAKDHER, J

SANJAY KISHAN KAUL, J

NOVEMBER 04, 2011
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