



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + **ITA 459 of 2008**
ITA 337 of 2007
ITA 338 of 2007
ITA 131 of 2009

JUDGMENT RESERVED ON:22.7.2011
JUDGMENT DELIVERED ON:23.12.2011

(1) **ITA 459 of 2008**

COMMISSIONER OF INCOME TAX-XVI **APPELLANT**
 Through: Ms. Rashmi Chopra, Advocate.
Versus

MR. ROBERT MICHAEL ARTHEY
C/o PRICEWATERHOUSE
COOPERS (P) LTD. ..**RESPONDENT**
 Through: Mr.Sudeep Bhandari, Advocate.

(2) **ITA 337 OF 2007**

COMMISSIONER OF INCOME TAX-XVI **APPELLANT**
 Through: Ms. Rashmi Chopra, Advocate.
Versus

MR.LESTNER GARNETT ..**RESPONDENT**
 Through: Mr.Sudeep Bhandari, Advocate.

(3) **ITA 338 OF 2007**

COMMISSIONER OF INCOME TAX-XVI **APPELLANT**
 Through: Ms. Rashmi Chopra, Advocate.



Versus

MR.LESTNER GARNETT **..RESPONDENT**

Through: Mr.Sudeep Bhandari, Advocate.

(4)

ITA 131 OF 2009

COMMISSIONER OF INCOME TAX-XVI **.... APPELLANT**

Through: Ms. Rashmi Chopra, Advocate.

Versus

MR. VIJAY GOPAL JINDAL **..RESPONDENT**

Through: Mr.Sudeep Bhandari, Advocate.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE REVA KHETRAPAL

A.K.SIKRI, ACTING CHIEF JUSTICE:

ITA No. 459 of 2008

1. Order in this appeal was reserved alongwith ITA 504/2007 and other connected matters since issue of charging of interest under Section 234-B of the Income-Tax Act had arisen in those appeals also.

2. Vide separate order passed today, the issue is decided in favour of the assessee.



3. That apart, we find that the tax effect in this appeal is ₹ 4,79,170/- and in view of the latest guidelines of the CBDT, the appeal is otherwise not entertainable when we find that the issue does not have cascading effect.

4. It would be worthwhile to mention that the interest was charged under the aforesaid provision by the Assessing Officer on the ground that advance tax was not paid. This order was set aside by the CIT (A) and the order of the CIT(A) has been affirmed by the ITAT holding that the assessee had no liability to pay advance tax in view of the fact that his entire income was subject to tax at source.

5. This issue also stands concluded by a Division Bench judgment of this Court in *Director of Income-Tax Vs. Jacob Civil Incorporated* [2010] 194 TAXMAN 495.

6. Thus, no substantial question of law arises in this appeal which is accordingly dismissed.



ITA No. 337/2007 & ITA 338/2007

7. Order in this appeal was reserved alongwith ITA 504/2007 and other connected matters since issue of charging of interest under Section 234-B of the Income-Tax Act had arisen in those appeals also.

8. Vide separate order passed today, the issue is decided in favour of the assessee.

9. That apart, we find that the tax effect in this appeal is much less than ₹ 4 lacs and in view of the latest guidelines of the CBDT, the appeal is otherwise not entertainable when we find that the issue does not have cascading effect.

10. It would be worthwhile to mention that the interest was charged under the aforesaid provision by the Assessing Officer on the ground that advance tax was not paid. This order was set aside by the ITAT holding that the assessee had no liability to pay advance tax in view of the fact that his entire income was subject to tax at source.



11. This issue also stands concluded by a Division Bench judgment of this Court in *Director of Income-Tax Vs. Jacob Civil Incorporated* [2010] 194 TAXMAN 495.

12. Thus, no substantial question of law arises in these appeals which are accordingly dismissed.

ITA No. 131/2009

13. Order in this appeal was reserved alongwith ITA 504/2007 and other connected matters since issue of charging of interest under Section 234-B of the Income-Tax Act had arisen in those appeals also.

14. It would be worthwhile to mention that the interest of ₹ 2,90,403/- and ₹3,56,637/- respectively was charged under Section 234-B & C of the Income-Tax Act by the Assessing Officer on the ground that advance tax was not paid. This order was set aside by the CIT (A) and the order of the CIT(A) has been affirmed by the ITAT holding that the assessee had no liability to pay advance tax in view of the fact that his entire income was subject to tax at source.



15. This issue also stands concluded by a Division Bench judgment of this Court in *Director of Income-Tax Vs. Jacob Civil Incorporated* [2010] 194 TAXMAN 495.

16. Thus, no substantial question of law arises in this appeal which is accordingly dismissed.

ACTING CHIEF JUSTICE

**(REVA KHETRAPAL)
JUDGE**

DECEMBER 23, 2011
skb