



§~1 to 4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 399/2012, C.M. APPL. 11599/2012**

+ **ITA 400/2012**

+ **ITA 401/2012, C.M. APPL. 11600/2012**

+ **ITA 402/2012, C.M. APPL. 11601/2012**

DIRECTOR OF INCOME TAX

..... Appellant

versus

SHIN SATELLITE PUBLIC COMPANY

..... Respondent

.....Appellant

Through: Sh. Sanjeev Sabharwal, Sr. Standing Counsel
with Sh. Punit Gupta, Junior Standing Counsel, for Income
Tax.

.....Respondents

Through: Sh. Ruchir Mishra, Advocate, for UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BIAT

HON'BLE MR. JUSTICE R.V.EASWAR

ORDER

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27.07.2012

The questions sought to be urged in these appeals by the Revenue is whether interest under Section 234A ought to have been paid by the Assessee. In all these appeals arising out of different Assessment Years, the Assessee had claimed that the income in its hands, was not taxable as it was not "royalty" within the meaning of that expression contained in Section 9(1)(vi) of the Income Tax Act. The Assessee succeeded in its contention; the main question as to the taxability of the amount and whether it was liable to be treated as royalty income was decided by this Court in the decision reported as *Asia Satellite Communications Company Limited v. DIT* (ITA No. 131/2003). In the meanwhile, the AO had invoked Section 154 to rectify the assessment by charging interest under Section 234A. Having regard to the final ruling of this Court in *Asia Satellite Communications Company Limited (supra)* that no taxable event occurred, the ITAT held that Section 234A would not be leviable. We are informed that this Court's



judgment has been carried in appeal to the Supreme Court and is pending consideration on its file.

Since there is no dispute about the fact on the main issue, this Court has ruled that there is no taxing event. The proceedings invoking Section 154 *vis-à-vis* Section 234A do not survive. It is open to the Revenue to take appropriate proceedings, if available, in the light of the final decision rendered by the Supreme Court in the pending appeals.

The appeals are dismissed but in the above terms.


S. RAVINDRA BHAT, J


R.V.EASWAR, J

JULY 27, 2012
'ajk'