



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

% Judgment delivered on: 18.02.2010

+ **ITA 1178/2008**

**C.I.T** ... Appellant

- versus -

**ILPEA PARAMOUNT (P) LTD** ... Respondent

**Advocates who appeared in this case:-**

For the Appellant : Ms P. L. Bansal with Ms Anshul Sharma  
For the Respondent : Ms Poonam Ahuja with Ms Mahima Agrawal

**CORAM:**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

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

**BADAR DURREZ AHMED, J (ORAL)**

1. We have heard the counsel for the parties. This appeal is directed against the Tribunal's order dated 11.01.2008 in ITA No. 2340/Del/2003 relating to the assessment year 2000-2001. The following substantial question of law arises for our consideration:-

- (a) Whether the Income Tax Appellate Tribunal was correct in law in deleting the addition made by the Assessing Officer by including provision for doubtful debts, provision for doubtful advances and provision for gratuity made by the assessee to the book profit while making computation u/s 115JA of the Act?
2. The above question is a composite question and includes three



- (i) provision for doubtful debts;
- (ii) provision for doubtful advances; and
- (iii) provision for gratuity

3. Insofar as the provision for gratuity is concerned, the issue stands decided against the revenue and in favour of the assessee by virtue of a decision of this Court in **CIT v. Hewlett Packard India: 314 ITR 55 (Del)**.

4. The questions with regard to the provision for doubtful debts and provision for doubtful advances have to be answered in favour of the revenue and against the assessee because of the retrospective amendment introduced in Section 115JA of the said Act. By virtue of Finance (No.2) Act, 2009, clause (g) has been inserted in the Explanation contained in Section 115JA (2). By virtue of the said amendment, the amount or amounts set aside as provision for diminution in the value of any asset, is specifically mentioned. The Supreme Court in the case of **CIT v. HCL Comnet Systems & Services: 305 ITR 409** held that provision for doubtful debts and doubtful advances did not fall within clause (c) of the said Explanation inasmuch as they amounted to provision in respect of diminution in the value of asset.

5. Now, with the introduction of the said amendment with retrospective effect from 01.04.1998, the provision for doubtful debts and the provision for doubtful advances, which are nothing but provision for diminution in the value of asset, are specifically covered under clause (g) of the said Explanation. Consequently, the question insofar as it relates to provision for



doubtful debts and provision for doubtful advances, requires to be answered in favour of the revenue and against the assessee. It is so answered.

The appeal stands disposed of accordingly.

**BADAR DURREZ AHMED, J**

**SIDDHARTH MRIDUL, J**

**FEBRUARY 18, 2010**  
**SR**