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

\+ ITA 1266/2010

COMMISSIONER OF INCOME TAX ..... Appellant
Through: Mrs. Prem Lata Bansal, Advocate

versus

BSES RAJDHANI POWERS LLD. ..... Respondent
Through: None

% Date of Decision: 31st August, 2010

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment? No.
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the Digest? No.

MANMOHAN, J:

CM 15180/2010

For the reasons stated in the application, delay in re-filing the appeal is condoned.

Accordingly, application stands disposed of.

ITA 1266/2010

1. The present appeal has been filed under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as "Act, 1961") challenging the order dated 22nd April, 2009 passed by the Income Tax

Appellate Tribunal (for brevity "Tribunal") in ITA No. 770/Del/2 for the Assessment Year 2004-2005.

2. Ms. Prem Lata Bansal, learned counsel for the Revenue submitted that the Tribunal had erred in law in allowing depreciation to the assessee at the higher rate of 60% on computer accessories and peripherals instead of the normal rate @ 25%. She further submitted that the computer peripherals and accessories could not be treated at par with computer and computer software.

3. However, upon a perusal of the file, we find that the higher rate of depreciation was allowed both by the Commissioner of Income Tax (Appeals) "CIT(A)"] and the Tribunal. In fact, the Tribunal in its impugned order has observed as under :-

> *"The issue involved in this appeal is covered by the decision of Coordinate of the Tribunal as discussed below:-*
>
> *In the case of ITO vs. Samiran Majumdar (2006) 98 ITD 119 (Kol.), ITAT Tata Bench 'B', has taken a view that the printer and scanner are integral part of the computer system and are to be treated as computer for the purpose of allowing higher rate of depreciation, i.e., 60%.*
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> *3.2 The ITAT, Delhi 'F' Bench in the case of Expeditors International (India) (P) Ltd. Vs. ld. CIT reported in (2008) 118 TTJ 652 has held that peripherals such as printer, scanners, NT Server, etc. form integral part of the computer and the same, therefore, are eligible for depreciation at the rate of 60% as applicable to a computer.*
>
> *4. Respectfully following the aforesaid decisions of the Coordinate Bench, we uphold the order of ld CIT(A) in allowing the depreciation at 60% on computer peripherals and accessories, and, thus, the ground raised by the revenue is rejected.*

> *5. In the result, the appeal filed by the revenue is dismissed."*

4. We are in agreement with the view of the Tribunal that computer accessories and peripherals such as, printers, scanners and server etc. form an integral part of the computer system. In fact, the computer accessories and peripherals cannot be used without the computer. Consequently, as they are the part of the computer system, they are entitled to depreciation at the higher rate of 60%.

5. In view of aforesaid, present appeal is dismissed *in limine*.

MANMOHAN, J

CHIEF JUSTICE

AUGUST 31, 2010
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