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

% Judgment delivered on: 12.04.2010

\+ **ITA 619/2010**

**COMMISSIONER OF INCOME TAX** … Appellant

- versus –

**BMR & ASSOCIATES** ... Respondent

**Advocates who appeared in this case : -**
For the Appellant : Ms Rashmi Chopra
For the Respondent : None

**CORAM:**
**HON'BLE MR. JUSTICE BADAR DURREZ AHMED**
**HON'BLE MR. JUSTICE V.K. JAIN**

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. The revenue is in appeal against the order of the Income-tax Appellate Tribunal dated 13.08.2009 passed in ITA No.2324/Del/2009 relating to the assessment year 2006-07. The issue before the Tribunal was whether the car lease rentals were covered under Section 194 I or under Section 194 C of the Income-tax Act, 1961 (hereinafter referred to as 'the said Act').

2. The Assessing Officer held that the said payments were in relation to a transport contract which was covered under Section 194 C and

any allowance under Section 40(a)(ia) of the said Act. The Commissioner of Income-tax (Appeals) examined the agreement entered into between the assessee and the lease rental company, namely, Kotak Mahindra Primus Ltd and came to the conclusion that it was only intended for providing the vehicles on lease to the assessee. The lessor was neither liable to provide a driver to the assessee nor was it responsible for the day-to-day maintenance or upkeep of the vehicles, which were also given to the assessee for a fixed period. The Commissioner of Income-tax (Appeals) also found that the lessor was not responsible in any manner for carrying passengers or goods and, therefore, the agreement could not be said to be a contract for carrying of goods or passengers as envisaged in clause (c) of Explanation III to Section 194 C.

3. Before the Tribunal also, the revenue was unable to dispute the fact that the vehicles in question were given on lease and that they did not carry any responsibility of the day-to-day maintenance or upkeep of the vehicles. Thus, both the Commissioner of Income-tax (Appeals) and the Income-tax Appellate Tribunal have returned findings of fact that the contract was not a transport contract, but merely entailed the taking of vehicles on lease and the payments were in the nature of lease rentals simplicitor. Consequently, the disallowance made by the Assessing Officer under Section 40(a)(ia) was liable to be deleted and it was ordered accordingly.

order. No substantial question of law arises for our consideration. The appeal is dismissed.

**BADAR DURREZ AHMED, J**

**V.K. JAIN, J**

**APRIL 12, 2010**
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