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

% Judgment delivered on: 29th January, 2010

\+ **ITA 63/2010**

THE COMMISSIONER OF INCOME TAX-VI ..... Appellant

-versus-

ULTIMATE FASHION MAKER LTD. ..... 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 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 the Digest? .

BADAR DURREZ AHMED, J (ORAL)

1. The Revenue is in appeal before us against the Tribunal's order dated 6th March, 2009 passed in ITA No.919/DEL/2008 relating to the assessment year 2001-02. The matter before the Tribunal, in turn, arose out of the order passed by the Commissioner of Income Tax (Appeals) who had deleted the

penalty of Rs.15,80,845/- imposed by the Assessing Officer under Section 271(1) (c) of the Income Tax Act, 1961 on the ground that a false claim had been made in respect of the Duty Entitlement Passbook Scheme (DEPB scheme) under Section 80-IB of the Income Tax Act, 1961 (hereinafter referred to as the 'said Act').

2. The Tribunal has come to the conclusion that the assessee had disclosed all the primary and material facts and, therefore, it could not be said that the assessee had concealed his income or had furnished inappropriate particulars of income. The Tribunal also noted that the assessee had filed explanation regarding its claim for deduction under Section 80-IB of the said Act which, according to the Tribunal, could not be said to be a false claim.

3. More importantly, the Tribunal has come to the conclusion that the issue of claim of DEPB was a debatable one when the assessee filed its return and that it amounted to a clear case of honest difference of opinion regarding the allowability of certain deductions made by the assessee. Consequently, the Tribunal held that there was no mistake in the order of the Commissioner of Income Tax (Appeals) in deleting the penalty.

4. We see no reason to interfere with the order passed by the Tribunal, particularly because of the finding that the issue of claim of DEPB was a

debatable one at that time. No substantial question of law arises for our consideration.

5. The appeal is dismissed.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

JANUARY 29, 2010
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