



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 12.08.2008

+ **ITA 909/2008**

COMMISSIONER OF INCOME TAX ... Appellant

- versus -

DART MANUFACTURING INDIA PVT. LTD ... Respondent

Advocates who appeared in this case:

For the Appellant : Ms Prem Lata Bansal

For the Respondent : None

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE RAJIV SHAKDHER

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 present appeal, filed on behalf of the revenue, pertains to the assessment year 2001-02 and is directed against the order dated 27.07.2007 passed by the Income-tax Appellate Tribunal.

2. A sum of Rs 10,64,930/- was paid by the assessee in the



and Low Tension Lines for supply of electricity to its factory. The question that arose was whether such expenditure was of a revenue nature or a capital nature. The Assessing Officer and the CIT (Appeals) both held that the expenditure was of a capital nature. However, the Income-tax Appellate Tribunal held that the expenditure was of a revenue nature. In doing so, the Tribunal relied on the decision of this court in the case of *Commissioner of Income-tax v. Saw Pipes Limited*: 300 ITR 35.

3. The facts in *Saw Pipes Limited* (*supra*) were that the assessee was engaged in the business of manufacturing pipes. The assessee, for the purposes of its fourth unit, requested the Maharashtra State Electricity Board to set up a service line for supply of electricity. The said State Electricity Board supplied these electricity lines, however, retaining the ownership of the cables. The assessee spent an amount of Rs 52 lakhs towards service charges paid to the said State Electricity Board. Since the assessee had not commenced production, being a new unit, it claimed the amount as a revenue expenditure. In that case, the contention raised by the revenue was that the laying of the service line was a benefit of an enduring nature to the assessee and, therefore, it was in the nature of a capital expenditure. This court relied upon an earlier decision in the case of *Hindustan Times Limited v.*



Commissioner of Income-tax: 122 ITR 977, wherein it was observed

that:-

“If the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more efficiently and profitably, leaving the fixed capital untouched, the expenditure would be on revenue account even though the advantage may endure for an indefinite future.”

4. In *Saw Pipes Limited (supra)*, this court observed that though the assessee had spent an amount of Rs 52 lakhs towards laying of service lines, the cables did not belong to the assessee, but belonged to the Maharashtra State Electricity Board and, therefore, the benefit that the assessee got was of a commercial nature and was in the nature of a business advantage. Consequently, this court held that the expenditure incurred by the assessee ought to be treated as revenue expenditure.

5. The facts of the present case are no different. The assessee paid the said sum of Rs 10,64,930/- to the State Electricity Board for installing the transformer and LT Lines for supply of electricity to its factory. The ownership of the transformer and the LT Lines remained with the State Electricity Board and the fixed capital structure of the assessee remained untouched. The ratio in the decision of this court in



Saw Pipes Limited (*supra*) would be fully applicable. The tribunal has done exactly this. We find no error in the decision of the tribunal.

6. Consequently, no substantial question of law arises for our consideration. This appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

August 12, 2008

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