THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 06.01.2010

\+ **ITR 8/2001 & ITR 16/2001**

COMMR. OF INCOME TAX ..... Petitioner

versus

M/S INTERNATILONAL RESEARCH PARK LAB. LTD ..... Respondent

Advocates who appeared in this case:-
For the Petitioner : Ms P. L. Bansal with Mr Paras Chaudhry
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 Digest?

BADAR DURREZ AHMED, J (ORAL)

1. In these two references for the assessment years 1990-1991 and 1991-1992, the following questions were referred to us for our decision:-

(1) Whether the Tribunal is right in holding that for determining the quantum of deduction in respect of profits derived from export u/s 80HHC, the entire profits computed under the head "profits and gains of business or profession" including the income of the nature of commission is to be taken into account?

(2) Whether the Tribunal is right in holding that commission received by the assessee on assignment of export orders to another party in India will form part of profits eligible for deduction u/s 80HHC?

It is not necessary for us to examine these questions in detail inasmuch as

view of the Supreme Court decisions in the cases of ***P. R. Prabhakar v. CIT* : (2006) 284 ITR 548 (SC)** and ***CIT v. Baby Marine Exports* : (2007) 290 ITR 323 (SC)**. Consequently, both the questions referred to us in these references are decided against the revenue and in favour of the assessee, following the Supreme Court decision referred to above. The references stand answered accordingly.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

JANUARY 06, 2010
SR