(2008) 07 DEL CK 0146

In the Delhi High Court

Case No : IT Reference No''s. 121 of 122 of 1989

Commissioner of Income Tax — APPELLANT

Vs

Aero Traders — RESPONDENT

Date of Decision : 15-07-2008

Acts Referred:
Income Tax Act, 1961 — Section 2(24), 256(1), 28

Citation : (2008) 07 DEL CK 0146

Hon'ble Judges : Rajiv Shakdher, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : P.L. Bansal, for the Appellant; V.P. Gupta and Basant Kumar, for the Respondent

Judgement

1. These references u/s 256 (1) of the income tax Act, 1961 raise the following question of law:- (1) Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the sum received by assessee on account of cash compensatory support was not revenue receipt and liable to tax?

The counsel for the parties state at the outset that the said question has to be decided in favour of the revenue and against the assessee in view of the amendments introduced by the Finance Act, 1990. Although the present references relate to the assessment year 1983-84, the amendments introduced by the Finance Act, 1990 would apply because they have been introduced with retrospective effect from 1-4-1967. The relevant amendments are the introduction of clause (iiib) in section 28 and clause (vb) in section 2(24) of the income tax Act 1961.

Consequently, this Court has no option but to decide the question in favour of the revenue and against the assessee in view of the retrospective amendments introduced through the Finance Act, 1990. It may be pointed out that the authorities below, while processing the case further may note the observations of this Court in Aero Leather (P) Ltd. Vs. Union of India and Others, wherein it was noted that a sympathetic view should be adopted when there is a retrospective piece of legislation. 2. The references stand answered accordingly.

