(2007) 09 DEL CK 0248

In the Delhi High Court

Commissioner of Income Tax APPELLANT

Vs

Hi-Tech Flexotext (P) Ltd. RESPONDENT

Date of Decision : 20-09-2007

Acts Referred:

Citation : (2008) 167 TAXMAN 185

Hon'ble Judges : Madan B. Lokur, J;Dr. S. Muralidhar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. In these two appeals, the revenue is aggrieved by a common order dated 30-9-2005 passed by the Income Tax Appellate Tribunal (hereinafter referred to as ''Tribunal'') in ITA Nos. 4679 and 5000/Delhi/98 relevant for the assessment year 1990-91.

2. Admit.

3. The following substantial question of law is framed for consideration:

Whether the Income Tax Appellate Tribunal was correct in law in deleting the penalty imposed by the assessing officer u/s 271(1)(c) of the Income Tax Act, 1961?

4. Filing of paper book is dispensed with.

5. Learned Counsel for the parties agree that in view of our decision dated 7-8-2007 in the quantum appeal being ITA No. 342 of 2007, the above question of law is required to be answered in the negative, that is, in favour of the revenue and against the assessee. Consequently, the issue of penalty will have to be determined by the Tribunal afresh after it takes a decision in the quantum appeal.

6. Accordingly the impugned order of the Tribunal is set aside and the matter is remanded to the Tribunal for a fresh decision on merits.

7. The parties will appear before the Tribunal on 18-10-2007.

8. The appeals are disposed of.

