(2008) 10 DEL CK 0097

In the Delhi High Court

Case No : IT Appeal No. 103 of 2008

Commissioner of Income Tax — APPELLANT

Vs

VXL Technology Ltd. — RESPONDENT

Date of Decision : 03-10-2008

Acts Referred:
Income Tax Act, 1961 — Section 271, 271(1)(c)

Citation : (2008) 10 DEL CK 0097

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

Bench : Division Bench

Advocate : Prem Lata Bansal, for the Appellant; Ajay Vohra, Ms. Kavita Jha and Sriram Krishna, for the Respondent

Final Decision : Disposed Off

Judgement

1. This appeal is directed against the order dated 27.11.2006 passed by the Income Tax Appellate Tribunal in ITA 4768/Del/2005 pertaining to the assessment year 1996-1997. By virtue of the impugned order the Tribunal has set aside the penalty imposed by the Assessing Officer u/s 271(1)(c) on the ground that the satisfaction was not recorded, following the decision of this Court in Commissioner of Income Tax Vs. Ram Commercial Enterprises Ltd., . The question of penalty on merits had not been taken up by the Tribunal in view of the said decision of this Court.

2. However, by virtue of the Finance Act, 2008 an amendment has been introduced in Section 271 with the insertion of sub-section (1B) with retrospective effect from 01.04.1989. In view of the said amendment the impugned order needs to be set aside and the question of penalty has to be examined on merits.

3. Consequently, we set aside the impugned order and remand the matter to the Tribunal to examine the question of penalty on merits. The matter be listed before the Tribunal on 26.11.2008 for directions. The appeal stands disposed of

accordingly.

