
(2008) 12 DEL CK 0006

In the Delhi High Court

Case No : Income Tax A. 552 of 2008

Commissioner of Income Tax

APPELLANT

Vs

Web Commerce (India) Pvt. Ltd.

RESPONDENT

Date of Decision : 12-12-2008

Acts Referred:

Income Tax Act, 1961 — Section 10A, 10B(5), 80HHB(3), 80IA(7), 80J(6A)

Citation : (2009) 318 ITR 135 : (2009) 178 TAXMAN 310

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

Bench : Division Bench

Advocate : Prem Lata Bansal Sanjeev Rajpal M.P. Gupta and Anshul Sharma, for the Appellant; K.R. Manjani, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—In the present appeal the appellant seeks to raise the question of interpretation with regard to the provisions of Section 10B(5) of the Income Tax Act, 1961 (hereinafter referred to as the 'said Act?'). The said provision is virtually identical to the provisions of Section 80IA(7) as also 80HHB(3)(ia). It is also identical to the erstwhile provisions of Section 80J(6A) of the said Act.

2. This Court has already interpreted the latter provisions and has held the same to be directory and not mandatory. The contention of the revenue was that unless and until the audit report is filed along with the return, the benefit of Section 10A cannot be available to the assessee. Recently, we have considered the identical provisions of Section 80IA(7) in the case of CIT v. Contimeters Electricals Private Limited ITA 1366/2008 decided on 02.12.2008 and held that as long as the audit report is filed before the framing of the assessment, the provisions of Section 80IA(7) would be complied with inasmuch as the same are directory and not mandatory. A similar view would have to be taken in the present case also inasmuch as the provisions are the same. Consequently, we do not find any fault with the conclusions arrived at by the Tribunal. No substantial

question of law arises for our consideration.

The appeal is dismissed.