

THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment delivered on: 25.08.2008

+ ITA 469/2008

**THE COMMISSIONER OF INCOME
TAX DELHI-IV**

... Appellant

- versus -

GETIT INFOMEDIARY LIMITED

... Respondent

Advocates who appeared in this case:

For the Appellant : Ms Prem Lata Bansal

CORAM:-

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE RAJIV SHAKDHER**

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. This appeal preferred by the revenue in respect of the assessment year 2003-2004 against the order of the Tribunal passed on 22.06.2007 is concerned with the issue of writing off bad debts by the assessee.

2. The Tribunal, after examining the amendment brought about in Section 36 (1) (vii) of the Income Tax Act, 1961 (hereinafter referred to as the 'said Act') with effect from 01.04.1989, arrived at a conclusion that the deduction claimed by the assessee on account of

bad debts, part of which were from government departments and the remaining part from private parties, was fully allowable as bad debts written off under the provisions of Section 36 (1) (vii) read with Section 36 (2) of the said Act.

3. It may be relevant to note that in the return of income filed by the assessee a deduction of Rs 1,67,33,202/- was claimed by the assessee on account of bad debts written off. Out of this sum an amount of Rs 1,13,40,655/- was in respect of the government telephone department and the remaining amount was in respect of private parties. The Assessing Officer had disallowed the claim of the assessee for deduction of the said amount claimed as bad debts to the extent of 25% relating to the government telephone department and 15% relating to the other private parties. This resulted in an addition of Rs 36,44,046/-.

4. It is obvious that the Assessing Officer, while allowing 25% of the bad debts written off relating to the government telephone department, was of the view that to that extent the debts were irrecoverable from the said department and / or the said department was insolvent to that extent. The logic employed by the Assessing Officer is rather curious. We are not impressed by it. In any event, we need not dwell upon this issue any further inasmuch as the Tribunal has followed the decision of this Court in the case of **CIT v. Autometers**

Ltd :292 ITR 345 and has observed that the assessee is not required to establish that the debt has become bad in the relevant previous year and it is sufficient for the purposes of claiming deduction on account of bad debts that the concerned debt had been written off as irrecoverable in the books of the assessee. The fact that the assessee had written off the said bad debts in its books is not controverted.

5. Consequently, we find that there is no cause for interference with the impugned order. No substantial question of law arises for our consideration. The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

August 25, 2008
SR