

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 21.05.2013

+ **ITA 246/2013**

COMMISSIONER OF INCOME TAX

... Appellant

versus

INFOMEDIARY INDIA PVT. LTD.

... Respondent

+ **ITA 247/2013**

COMMISSIONER OF INCOME TAX

... Appellant

versus

INFOMEDIARY INDIA PVT. LTD.

... Respondent

Advocates who appeared in this case:

For the Appellant : Mr Sanjeev Sabharwal and Mr Puneet Gupta

For the Respondent : Mr Salil Kapoor, Mr T.R Talwal and Mr Vikas Jain

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

CM No. 7644/2013 in ITA 247/2013

The exemption is allowed subject to all just exceptions.

ITA 246/2013 & ITA 247/2013

1. The present appeals pertain to the assessment year 2001-02 and arise out of the common order passed by the Tribunal on 29.06.2012 in ITA No. 4777/Del/2011 and ITA No. 4778/Del/2011, respectively.

2. In an earlier round before the Tribunal, the assessee had filed appeals being ITA Nos. 3479-3480/Del/2009. The Tribunal, by virtue of its common order dated 16.10.2009, upheld the validity of proceedings under Section 147 of the Income – tax Act, 1961 and remanded the matter on merits to the file of the Assessing Officer. Being aggrieved, the respondent / assessee preferred appeals before this court being ITA Nos. 1228-1229/2010. By a judgment and order dated 23.12.2011, this court set aside the Tribunal's order insofar as the validity of proceedings under Section 147 of the said Act were concerned. In other words, the High Court took the view that the proceedings under Section 147 of the said Act were invalid.

3. In the meanwhile, in the remand proceedings, the Assessing Officer framed the assessments on 29.11.2010 in respect of both the assessment years. The Commissioner of Income Tax (Appeals) dismissed the appeals filed therefrom by the assessee by two separate orders dated 16.08.2011. It is against those separate orders, that the assessee was in appeal before the Income Tax Appellate Tribunal in ITA Nos. 4777-4778/Del/2011 which have been allowed by the Tribunal on 29.06.2012 after noticing the fact that this court had, by its judgment and order dated 23.12.2011, held the initiation of proceedings under Section

147/148 of the said Act to be invalid. We may also note that subsequently by an order dated 21.09.2012, the Special Leave Petition preferred by the revenue against the order dated 23.12.2011 in respect of ITA No. 1228/2010 also came to be dismissed.

4. Since the issue of the validity of the proceedings under Section 147 has attained finality in the sense that the said proceedings have been held to be invalid by this court, and the Special Leave Petition has also been dismissed by the Supreme Court, the Tribunal was correct in allowing the appeals filed by the respondent / assessee in respect of the remand proceedings. The remand was only consequent upon the decision of the Tribunal in the earlier round to the effect that the proceedings under Section 147 of the said Act were valid. Now, those proceedings have been held to be invalid. Hence, the consequential remand proceedings would be of no consequence. As such no interference is called for with the impugned order passed by the Tribunal. No substantial question of law arises for our consideration.

5. These appeals are dismissed.

BADAR DURREZ AHMED, J

VIBHU BAKHRU, J

MAY 21, 2013
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