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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 6/2018

THE PR. COMMISSIONER OF INCOME TAX -6 ..... Appellant
Through: Mr. Ruchir Bhatia, Adv.

versus

MODIPON LTD. ..... Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

<u>O R D E R</u>

% **08.01.2018**

The Revenue is aggrieved by an order of Income Tax Appellate Tribunal (ITAT) confirmed by CIT(A) order. The Assessing Officer (AO) has imposed penalty on the ground that the assessee had filed inaccurate particulars under Section 271(1)(c) of the Income Tax Act, 1961 ('the Act'). The finding rendered was that the payment made under the VRS scheme could have been deducted only to the extent of 20% under Section 35DDA of the Act. The CIT (A) however, set aside the penalty; the ITAT concurred.

It is contended that Section 35DDA of the Act specifically provided to cater to situation, i.e. provision for VRS; the assessee was under a duty to claim benefits in its terms rather than, as a deduction of the whole. By not claiming the correct deduction, the assessee, it is argued, filed inaccurate particulars, which amounted to misleading the Revenue.

This Court notices that ITAT in its impugned order has relied upon a decision of this Court in '*Commissioner of Income Tax Vs. Dalmia (Pvt.) Ltd.'*, 186 Taxmann 155 (Del.). The High Court in that case too, was concerned with a somewhat similar situation i.e. the claim made in respect of VRS benefits, and, whether claim of whole amount as a deduction, is contrary to Section 35DDA of the Act and, could result in a justifiable penalty under Section 271(1)(c) of the Act. It was ruled that such could not be the consequence and the penalty was set aside.

Having regard to the circumstance that the lower Appellate Authority has rendered a concurrent finding favouring the assessee and the benefits are granted in terms of the previous decision in Dalmia's case (*supra*), this Court is of the opinion that no substantial question of law arises. Appeal is therefore, dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 08, 2018
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