

**(2008) 04 DEL CK 0194**

**Delhi High Court**

**Case No:** IT Appeal No. 337 of 2008

Commissioner of Income Tax

APPELLANT

Vs

Ambassador Travels (P) Ltd.

RESPONDENT

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**Date of Decision:** April 23, 2008

**Acts Referred:**

- Income Tax Act, 1961 - Section 2(22)

**Citation:** (2008) 220 CTR 475 : (2008) 173 TAXMAN 407

**Hon'ble Judges:** Manmohan Singh, J; Madan B. Lokur, J

**Bench:** Division Bench

**Advocate:** P.L. Bansal, for the Appellant; Prakash Kumar, for the Respondent

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### **Judgement**

@JUDGMENTTAG-ORDER

1. The Revenue is aggrieved by an order dt. 18th July, 2007, passed by the Income Tax Appellant Tribunal, Delhi Bench "C New Delhi (the "Tribunal") in ITA No. 3090/Del/2003 relevant for the asst. yr. 1998-99.

2. The assessee is engaged in the business of a travel agency. During the previous year relevant to the assessment year the assessee had entered into certain business transactions with M/s Holiday Resort (P) Ltd. and M/s Ambassador Tours (India) (P) Ltd.

As a result of these business transactions, there were some financial transactions but the AO came to the conclusion that because of the shareholding pattern, these financial transactions would fall in the category of "deemed dividend" defined u/s 2(22)(e) of the IT Act, 1961. This view was upheld by the CIT(A).

3. Feeling aggrieved, the assessee preferred a further appeal before the Tribunal, which was allowed.

4. The Tribunal was of the view that there is nothing on record to show that the amounts considered by the AO were in any manner advances or loans in the account of the assessee. Being a travel agency, it had regular business dealings with the above two concerns dealing with holiday resorts and the tourism industry. Therefore, since the transactions were normal business transactions, which were carried out during the course of the relevant previous year, they cannot be described as advances or loans, which form a distinct category of financial transactions. Under the circumstances, the Tribunal came to the conclusion that since these transactions did not represent loans or advances, the provisions of Section 2(22)(e) of the Act were not at all applicable.

5. We are of the view that the order passed by the Tribunal does not suffer from any error of law. It is quite clear that the assessee was a travel agency and the above two concerns that it had dealings with, that is, M/s Holiday Resort (P) Ltd. and M/s Ambassador Tours (India) (P) Ltd. were also in the tourism business. The assessee was involved in the booking of resorts for the customers of these companies and entered into normal business transactions as a part of its day-to-day business activities. The financial transactions cannot in any circumstances be treated as loans or advances received by the assessee from these two concerns.

6. Consequently, the Tribunal was right in coming to the conclusion that the provisions of Section 2(22)(e) of the Act are not applicable.

In our opinion, no substantial question of law arises. Dismissed.