

(2009) 08 UK CK 0015

Uttarakhand High Court

Case No: None

Director of Income Tax,
International Taxation and Dy.
Commissioner Income Tax

APPELLANT

Vs

Western Geco International Ltd.,
as an Agent of Mr. Carteza Levi

RESPONDENT

Date of Decision: Aug. 7, 2009

Acts Referred:

- Income Tax Act, 1961 - Section 10, 148, 234B, 260A

Hon'ble Judges: Brahma Singh Verma, J; B.C.Kandpal, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. All these 32 appeals, preferred u/s 260A of the Income Tax Act, 1961 (for short the Act) are directed against the order dated 26-4-2007 passed by the Income Tax Appellate Tribunal (Delhi Bench "C") (for short ITAT), in Income Tax Appeal Nos. 3039 to 3073/Del/2006. Since the controversy involved in these appeals is the same and between the same parties as well as relating to the same Assessment Year 2003-04 and as the question of law to be answered in all these appeals is the same, therefore, for the sake of convenience, they are being decided by this common judgment.

2. By the order impugned in these appeals, the learned ITAT has upheld the order passed by the Commissioner of Income Tax (Appeals) (for short CITA) observing that there is no infirmity in the order of the CITA deleting the interest charged u/s 234B of the Act.

3. We have heard learned Counsel for the parties and perused the record.

4. The only question of law to be answered in these appeals is as under:

Whether Income Tax Appellate Tribunal has wrongly held that the interest u/s 234B of the Act is not payable on the tax payable by the respondent assessee, particularly after the tax is deducted at source?

5. Relevant facts giving to these appeals are that the assesses are the employees of Western Geco International Ltd., who filed a return of income tax on behalf of the employees for the assessment year 2003-04. In the return, exemption u/s 10(10CC) of the Act was claimed. The Assessing Officer (for short A.O.) noticed that no exemption under the said provision of the Act was available to the assessee and a notice u/s under Section 148 of the Act was issued requiring them to file a return as specified in the notice. The notice was replied that the original return submitted to the A.O. be treated as final return. The A.O. after giving opportunity of hearing to the parties, did not find favour with the assessee and the A.O. did not allow the exemption on the perquisite claimed by them and after applying principle of multiple stage grossing up", the income was assessed as mentioned the Assessment Order. Aggrieved by the order of the A.O. assessee filed appeals before the CITA. The CITA vide its order dated 21-7-2006 partly allowed the appeals. The Revenue preferred the appeals before the ITAT. The ITAT also did not find favour with the Revenue and dismissed all the appeals by the order dated 26-4-2007, which is impugned in these appeals before this Court.

6. In the course of arguments, Mr. Chetan Joshi, learned Counsel appearing for the respondent Western Geco International Ltd., submitted that all these appeals are covered by the Division Bench judgment of this Court dated 20-7-2004 in the case of Commissioner of Income Tax v. Halliburton Offshore Services Inc. [2004] 271 ITR 0395. Learned Counsel for the respondent also submitted that the present appeals are squarely covered by the subsequent Division Bench judgment dated 8-8-2008 passed by this Court in Income Tax Appeal No. 56 of 2007, The Commissioner of Income Tax, Dehradun and Anr. v. Oil Ltd., C/o Nangia & Co., CA's, 75/1, Rajpur Road, Dehradun. Learned Counsel for the respondent has urged that all these appeals may be dismissed on merits in terms of the judgment dated 8-8-2008 passed by this Court.

7. Learned Counsel for the appellants-revenue Sri Arvind Vashist has fairly conceded to the above fact.

8. We have perused the aforesaid judgments. The Division Bench of this Court has answered the question of law against the revenue in both the cited cases. We also find that almost identical question of law was framed in Income Tax Appeal No. 56 of 2007, The Commissioner of Income Tax, Dehradun and another v. Oil Ltd., C/o Nangia & Co., CA's, 75/1, Rajpur Road, Dehradun. Accordingly, we are of the view that the controversy involved in all these appeals stood resolved by the order dated 8-8-2008 passed by the Division Bench of this Court in Income Tax Appeal No. 56 of 2007, The Commissioner of Income Tax, Dehradun and Anr. v. Oil Ltd., C/o Nangia & Co., CA's, 75/1, Rajpur Road, Dehradun. Hence all the appeals preferred by the

revenue are liable to be dismissed on merits in terms of the said order.

9. All the 32 appeals preferred by revenue/appellants are dismissed on merits in terms of the judgment dated 8-8-2008 passed by the Division Bench of this Court in Income Tax Appeal No. 56 of 2007, The Commissioner of Income Tax, Dehradun and Anr. v. Oil Ltd., C/o Nangia & Co., CA's, 75/1, Rajpur Road, Dehradun. Costs easy.