

IN THE HIGH COURT OF DELHI AT NEW DELHI

15.07.2008

**Present: Mr J. R. Goel with Mr Subhash Sharma
for the Appellant.**

**ITA 803/2008 CHEMICAL & METTALLURGICAL DESIGN CO. LTD. (PRESENTLY KNOWN AS PBC
VENTURES LTD.)**

This appeal filed by the revenue pertaining to the year 2001-2002 turns purely on facts and no substantial question of law arises. The assessee was running a business centre and was also engaged in other allied activities. The assessee also had dividend income in the year in question. The assessee claimed dividend income of Rs'14,08,184/-. Exemption was claimed in respect of this dividend income. The assessee, however, did not claim any expenses against this income. The Assessing Officer disallowed proportionate expenditure in respect of this exempted dividend income and made an addition of Rs 11,68,796/-. The Commissioner of Income Tax (Appeals) allowed the appeal of the assessee and deleted the addition made by the Assessing Officer. The Commissioner of Income Tax (Appeals) was of the opinion that the estimation of expenses made by the Assessing Officer was based purely on surmises and conjectures which cannot be upheld.

The revenue's appeal before the Income Tax Appellate Tribunal was rejected by the said Tribunal by the impugned order dated 07.12.2007 wherein it was observed as under:-

'We have carefully considered the entire material on record and the rival submissions. The AO has not assigned any cogent reason to disallow the proportionate expenditure. The AO could not have made further inquiry if the assessee did not furnish the required details. In any case, in absence of any material on record and without there being any basis for disallowance, the proportionate disallowance made on estimate basis cannot be justified. The contention of the assessee was that it was carrying on various activities and for investment in shares, no separate office was required. After considering the volume of transactions in the business and the quantum of dividend income, there is no justification for making disallowance of expenditure on proportionate basis. We, therefore, do not find any scope to interfere in the order of the Ld. CIT(A) and reject the ground taken by the revenue.?'

The aforesaid circumstances clearly indicate that the decision of the Commissioner of Income Tax (Appeals) as well as that of the Income Tax Appellate Tribunal turned entirely upon facts and no question of law, what to speak of a substantial question of law, arises for consideration of this Court. The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

July 15, 2008

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