

IN THE HIGH COURT OF DELHI AT NEW DELHI

02.12.2009

Present: Mr. M.S. Syali, Sr. Advocate with Ms. Mahua Kalra, Advocate for the Appellant.

Mr. Sanjeev Sabharwal, Advocate for the Respondent.

ITA No. 1167/2009 NEW SKIES SATELLITES NV

Vs. ASSTT DIRECTOR OF INCOME TAX INTERNATIONAL TAXATION

One of the submission of learned counsel for the Appellant is that it was noted in the order dated 9th November, 2009 as well that the Tribunal while

answering the question took into consideration the agreement in the case of Asia

Satellite alone, which is a different company and was intervener in the matter

before the Tribunal. It is submitted that the agreement in the case of the assessee is altogether different and the observations raised on the agreement in

the case of Asia Satellite could not be relied upon in deciding the case of the

Appellant.

It is further submitted that the Tribunal in the impugned order did not even observed that case of Asia Satellite was at par with that of the Appellant

and to that extent the impugned judgment is without application of mind.

We had directed learned counsel for the Revenue to look into this aspect and in case they agree the matter could be remitted back to the Tribunal for

fresh consideration, insofar as case of the Appellant is concerned. Mr. Sabharwal, however, submits that on

**ITA No.1167/2009 Page 1
of 2**

the basis of the discussion contained in the impugned judgment, the Respondent

shall argue that the decision in the case of assessee also is rightly taken. In view thereof, we list the matter for hearing on 28th April, 2010.
CM 15916/2009 (Stay)

This is an application for stay.

Mr. M.S. Syali, learned senior counsel for the Appellant submits that there is a tax liability of Rs.1.0785 crores and the Appellant is ready to deposit the same.

We find that apart from the above, the Respondent has also made demand of

interest under Section 254D, 220(2) as well as Section 234D.

Keeping in view the totality of circumstances, till the decision in this appeal, we stay the demand of interest subject to the deposit of Rs.1.35 crores within one week.

A.K. SIKRI, J.

SIDDHARTH MRIDUL, J.

December 02, 2009

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ITA No.1167/2009 Page 2
of 2

47