

IN THE HIGH COURT OF DELHI AT NEW DELHI

02.12.2009

Present: Mr. Sanjeev Sabharwal, Adv. for the Appellant.

ITA No. 1231/2009 with CM 16759/2009

COMMISSIONER OF INCOME TAX Vs. JET AIR PVT LTD.

Advocate : SANJEEV SABHARWAL

The entire case is based on finding of fact, which is clear from the following observations of the Tribunal:

?14. We have carefully considered the rival contentions in the light of material placed before us. Though it has been the case of the AO that assessee utilized interest bearing funds for advancing interest free loans, but no nexus have been established by the AO to say so. As against that assessee has shown that whatever interest bearing funds were available with the assessee, none of them was utilized to advance interest free funds. It was shown that interest paid on overdraft obtained from bank was not linked and utilized for making any interest free advances. Similarly, in respect of inter-corporate deposits it was shown that there was a surplus of a sum of Rs.7,97,061/- and above all it was shown that assessee possessed sufficient share capital as well as reserves and surplus to cover these interest free advances. None of these grounds of the assessee has been assailed by revenue by placing any evidence on record to controvert the same. If it is so, then there is no ground for interfering with the order of the CIT(A) vide which it has been held that disallowance has been made on wrong footing as no link has been found or established to advance interest free advances from interest bearing funds. We decline to interfere in the disallowance of Rs.37,76,204/-.

15. On the second issue i.e., interest payment made to DDA of Rs.9,64,267/-, the same was contended to be non-penal in nature. It was on account of delayed payment of arrears of ground rent. Unless it is an expenditure made by the assessee in contravention of some law, the same cannot be disallowed. Therefore, the order of the CIT(A)

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that the same could not be disallowed as the same was not penalty in nature is required to be upheld. We decline to interfere with deletion of this disallowance also.?

**No question of law arises.
Dismissed.**

A.K. SIKRI, J.

SIDDHARTH MRIDUL, J.
DECEMBER 2, 2009
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