

IN THE HIGH COURT OF DELHI AT NEW DELHI

16.09.2009

Present: Mr. Sanjeev Sabharwal for the appellant.

ITA No.579/2009 COMMISSIONER OF INCOME TAX **Vs.** L.G. CHEMICALS INDIA PVT. LTD

It is not in dispute that when the assessee had filed the return on 2.12.2003 in respect of the assessment year 2003-04 claiming set off of Brought Forward Losses, an identical issue for previous year, i.e. assessment year 2001-02 was pending before the CIT(A). This appeal was decided only after the filing of the return, i.e. on 29.9.2004. The assessee had preferred appeal there against, which was dismissed by the ITAT on 26.8.2005. Thereafter, when the assessee was sent a questionnaire seeking basis of Brought Forward Losses, he withdrew the claim on 20.10.2005. In these circumstances, we are of the opinion that the claim preferred by the assessee in the original return, though withdrawn subsequently, was a bona fide move. Therefore, the ITAT rightly held that the assessee, in these circumstances, could not be subjected to penalty. No question of law arises. Dismissed.

A.K.SIKRI,J.