

**Court No. - 37**

**Case :-** INCOME TAX APPEAL No. - 619 of 2007

**Petitioner :-** Commissioner Of Income Tax

**Respondent :-** M/S Khandelwal Cables Ltd.

**Petitioner Counsel :-** Shambhu Chopra/S.C.

**Hon'ble Yatindra Singh,J.**

**Hon'ble Rajes Kumar,J.**

We have heard Sri Shambhu Chopra counsel for the appellant.

It appears that during the year under consideration the Company has paid a sum of Rs.60,00,000/- as fixed royalty and further 8% royalty on the turnover to its Managing Director Sri Mahesh Chand Gupta. A sum of Rs.60,00,000/- has been disallowed by the assessing authority on the ground that it was the expenditure relating to the earlier years and not for the year under consideration and, further 8% royalty has been disallowed on the ground that it was excessive.

Being aggrieved by the order, the respondent filed an appeal before the Commissioner of Income Tax (Appeal). The Commissioner of Income Tax (Appeal) on perusal of the agreement entered into between the Company and Sri Mahesh Chand Gupta, found that there is nothing on record to show that the payment of Rs.60,00,000/- was relating to the earlier years and accordingly allowed the expenditure. The Commissioner of Income Tax (Appeal) has held that the payment of 8% royalty was not excessive. This view of the Commissioner of Income Tax (Appeal) has been upheld by the Tribunal.

Both the authorities have recorded the findings that the payment of Rs.60,00,000/- was not relating to the earlier years and payment of 8% royalty is not excessive. The finding of the Tribunal is finding of fact. No substantial question of law arises from the order of the Tribunal. The appeal has no merit and is dismissed.

**Order Date :-** 1.10.2010

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