

**THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 12.01.2010

+ **ITA 613/2008**

**COMMISSIONER OF INCOME TAX** ... Appellant

- versus -

**INFO VERGIX TECHNOLOGIES LIMITED** ... Respondent

**Advocates who appeared in this case:**

For the Appellant : Ms Prem Lata Bansal

For the Respondent : None

**CORAM:-**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

**BADAR DURREZ AHMED, J (ORAL)**

1. This appeal is in respect of the assessment year 2001-02 and is directed against the order of the Income-tax Appellate Tribunal dated 15.05.2007 in ITA No.1436/Del/2004. The assessee had shown expenditure as deferred revenue expenditure in its books. However, it had claimed it as revenue expenditure in its return. The Assessing Officer had disallowed the same and the Commissioner of Income-tax (Appeals) had confirmed the disallowance. The total extent of disallowance was Rs 31,54,846/-. The Income-tax Appellate Tribunal has allowed the deduction on the ground

that, although the said sum had been shown differently in the books, the same was allowable as per law.

2. The learned counsel for the revenue has pointed out before us that the said sum of Rs 31,54,846/- comprised of two components, a sum of Rs 8,19,365/-, which is said to be expenditure incurred between the period 01.04.2000 to 30.05.2000 (pre-commencement period) and a sum of Rs 23,35,481/- incurred after 30.05.2000. The assessee had three businesses—networking, call centre and e-business activities. The learned counsel for the revenue pointed out that as regards the expenditure of Rs 8,19,365/-, it was clearly incurred prior to the date of commencement of any business activity of the assessee and, accordingly, the same was in the nature of pre-operative expenses.

3. We have considered the submissions made by the learned counsel for the appellant / revenue. Nobody has appeared on behalf of the assessee, although the service was completed by means of substituted service. Considering the decision of the Income-tax Appellate Tribunal and the submissions made before us by the learned counsel for the revenue, we are of the view that no interference whatsoever is called for with regard to the expenses incurred after 30.05.2000 which are in the sum of Rs 23,35,481/-. But, with regard to the balance sum of Rs 8,19,365/-, which are expenses for the pre-commencement period, we find that there is no discussion with regard to this in the impugned order. However, we are not inclined to interfere with the impugned order because the tax effect in

respect of the said expenditure of Rs 8,19,365/- would be less than Rs 4 lakhs.

The appeal stands disposed of accordingly.

**BADAR DURREZ AHMED, J**

**SIDDHARTH MRIDUL, J**

**JANUARY 12, 2010**

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