

IN THE HIGH COURT OF DELHI AT NEW DELHI 17.08.2009

Present: Ms. Prem Lata Bansal, Advocate with Mr. Paras Chaudhry, Advocate and Ms. Anshul Sharma, Advocate for the appellant. Mr. Salil Aggarwal, Advocate with Mr. Parkash Kumar, Advocate for the respondent.

I.T.A. No. 315/2006

FRANCIS WACZIARG

No doubt the assessee had sought deduction under **Section 80-O of the Income Tax Act even when the judgment of this Court in case of Marketing Research Corporation 61 CTR 204 against the assessee. However, we are still of the view that on that basis the assessee could not have been fastened with**

penalty under the provisions of Section 271(1)(c) of the Income Tax Act. It is because of the reason that judgment of Madras High Court in Csthman India Maritime (P) Ltd. 113 ITR 570 was in favour of assessee as per which deduction under Section 80-O of the Act was allowed. It is also a matter of record that view of the Madras High Court was later on accepted by the Bombay High Court in case of Asian Cables Corporation 262 ITR 535.

In such a situation, observation of the Income Tax Appellate Tribunal that the assess made a claim with possibility of judgment of this Court being reversed on a future date could not be ruled out. The assessee may have made a claim in order to keep the matter alive, however, it cannot be treated as a case of concealment of particulars relating to computation of deduction under Section 80-O of the Act as likely pointed out by the Tribunal. We are, therefore, of the opinion that no substantial question of law arises.

Dismissed.

A.K.SIKRI, J

VALMIKI J.MEHTA, J

August 17, 2009