

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1704 OF 2008

COMMR.OF INCOME TAX-XVIII,
DELHI

APPELLANT

VERSUS

BANK OF NOVA SCOTIA

RESPONDENT

J U D G M E N T

KURIAN, J.

1. The short issue pertains to the assessment of penalty under Section 271-C of the Income Tax Act, 1961. Against the order of Assessing Officer, the respondent took up the matter in appeal and the Commissioner of Income Tax (Appeals) deleted the levy of penalty.

2. The matter was pursued by the Revenue before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal vide order dated 31.03.2006 entered the following findings:

"11..We have carefully considered the rival submissions. In the instant case we are not dealing with collection of tax u/s 201(1) or compensatory interest u/s 201(1A). The case of the assessee is that these amounts have already been paid so as to end dispute with Revenue. In the present appeals we are concerned with levy of

penalty u/s 271-C for which it is necessary to establish that there was contumacious conduct on the part of the assessee. We find that on similar facts Hon'ble Delhi High Court have deleted levy of penalty u/s 271-C in the cae of M/s. Itochu Corporation, reported in 268 ITR 172 (Del) and in the case of CIT Vs. Mitsui & Company Ltd. reported in 272 ITR 545. Respectfully following the aforesaid judgments of Hon'ble Delhi High Court and the decision of the ITAT, Delhi in the case of Television Eighteen India Ltd., we allow the assessee's appeal and cancel the penalty as levied u/s 271-C."

3. Being aggrieved, the Revenue took up the matter before the High Court of Delhi against the order of the Income Tax Appellate Tribunal. The High Court rejected the appeal only on the ground that no substantial question of law arises in the matter.

4. On facts, we are convinced that there is no substantial question of law, the facts and law having properly and correctly been assessed and approached by the Commissioner of Income Tax (Appeals) as well as by the Income Tax Appellate Tribunal. Thus, we see no merits in the appeal and it is accordingly dismissed. No costs.

.....J.
(KURIAN JOSEPH)

.....J.
(ROHINTON FALI NARIMAN)

New Delhi;
January 07, 2016