

Technip Italy Spa Vs. Itat

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Court : Delhi

Decided On : Sep-10-2004

Reported in : [2005]144TAXMAN491(Delhi)

Appeal No. : Writ Petition (Civil) No. 13072 of 2004 10 September 2004

Appellant : Technip Italy Spa

Respondent : itat

Advocate for Pet/Ap. : M.S. Syali and; Alok,;for the Petitioner; R.D. Jolly,;f

Judgement :

The return was filed by the assessed showing a loss and an assessment order was made. Thereafter, under section 263 of the Income Tax Act, 1961 the Commissioner cancelled the assessment order and directed the assessing officer to re-frame the assessment. Against this order the assessed went in appeal being No. ITA 3736/2003 before the Tribunal and also filed an application for stay. The appeal has not yet been disposed of. Insofar as the application was concerned the prayer for stay was not pressed and the Tribunal directed that the appeal be posted for out of turn hearing and in the meanwhile the assessing officer was directed to frame the assessment but not to enforce the demand for a period of six months or till the hearing of the appeal whichever was earlier. Unfortunately the appeal has not yet been disposed of and we were told at the bar that the appeal was listed for hearing on 8-9-2004 but since there was no electricity in the

Tribunal, the matter had to be adjourned and the next date of hearing is 8-12-2004.

2. in the meanwhile the assessing officer re-framed the assessment and raised a demand and against that demand the assessed filed a fresh stay application which was declined by an order dated 28-6-2004. It is in this context that the present writ petition has been filed.

3. This writ petition can be disposed of with the direction that the appeal which is pending before the Tribunal be disposed of as expeditiously as possible preferably within one month. In the meanwhile, it will be open to the assessed to move for consideration of the stay application before the Tribunal.

The writ petition stands disposed of.

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