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IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH : NEW DELHI)
BEFORE SHRI R.P. GARG, SR. VICE PRESIDENT AND
SHRI GEORGE MATHAN, JUDICIAL MEMBER

ITA No.828/Del./2007
(Assessment Year : 2000-01)

ACIT, Circle 31(1),
New Delhi.

Vs.,

Smt. Zubi Kochar,
12/29, GF, East Patel Nagar,
New Delhi.
(PAN/GIR No.AAEPK1265H)

(Appellant)

(Respondent)

Assessee by : Shri Ved Jain/Rano Jain/V. Mohan,
Revenue by : Shri M. Alam, CIT(DR),

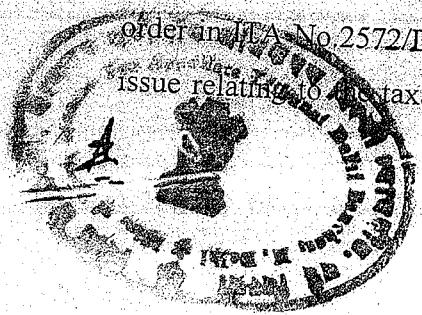
ORDER

PER GEORGE MATHAN, JM

This is an appeal filed by the revenue against the order of the CIT(A)-XXVI, New Delhi in appeal no.82/06-07 dated 12.12.2006. Shri M. Alam, Ld.CIT(DR), represented on behalf of the revenue and Shri Ved Jain/Rano Jain/V. Mohan, Ld.ARs, represented on behalf of the assessee.

2. At the time of hearing, it was submitted that the assessment had been completed u/s 143(3) read with section 263 of the I.T. Act on 27.3.2006. It was his submission that the order passed u/s 263 which was the very foundation for the assessment had been modified by this Tribunal in ITA No.2572/Del./05 vide its order dated 24.8.07. It was his submission that in view of the modification in the order of the CIT u/s 263 dated 31.3.05, the appeal of the revenue no more had legs to stand on and is liable to be dismissed. In reply, Ld.DR vehemently supported the order of the AO.

2. We have considered the rival submissions. It is noticed that this Tribunal in its order in ITA No.2572/Del./05 dated 24.8.05 in the case of the assessee has held that the issue relating to the taxability of the capital gains arising from the sale of business and



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and name of the assessee raised by the CIT was beyond the scope of the revision proceedings u/s 263 and the direction given by him to the AO in his impugned order passed u/s 263 to examine the said issue was not tenable and, therefore, the said direction had been deleted from the impugned order. It is noticed that the issue in the appeal of the revenue is in regard to the short term capital gains on transfer of the brand name. As it is noticed that the issue on which the revenue has filed this appeal is directly covered by the decision of this Tribunal in the assessee's own case in the order passed against the order of the CIT u/s 263, the issue stands squarely covered and consequently the appeal of the revenue is dismissed.

- 3. In the result, the appeal of the revenue is dismissed.
- 4. Order pronounced in open court on 17/03/09.

(R.P. GARG)
SR. VICE PRESIDENT

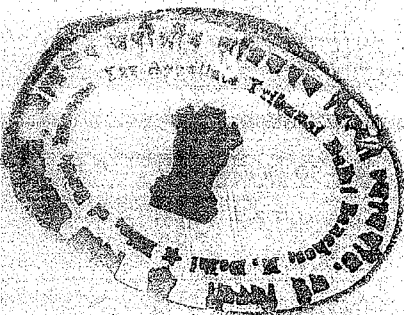
George Mathan
GEORGE MATHAN
JUDICIAL MEMBER

Dated: March 17, 2009.
SKB

Copy forwarded to:-

- 1. The Appellant
- 2. The Respondent *By Hand*
- 3. The CIT
- 4. The CIT (A)-XXVI, New Delhi
- 5. The DR, ITAT, Loknaya Bhawan, Khan Market, New Delhi.

True copy.



By Order

Registrar
Dy. Registrar
Income-tax Appellate Tribunal
New Delhi.
Income Tax Appellate Tribunal
दिल्ली पीठ, नई दिल्ली
Delhi Benches, New Delhi