

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4596 OF 2003

Commissioner of Income Tax, Delhi ...Appellant(s)

Versus

Jindal Equipment Leasing and ...Respondent(s)
Consultancy Service Limited

With Civil Appeal No.4597/2003 and Civil Appeal No.567/2010 @
S.L.P. (C) No.8367/2009

O R D E R

Heard learned counsel on both sides.

Delay condoned.

Leave granted in the special leave petition.

Having gone through the matter at length, we are not satisfied with the manner in which the High Court had disposed of the Income Tax Appeals filed by the Department under Section 260-A of the Income Tax Act, 1961. In the circumstances, we are required to remit the cases to the High Court for *de novo* consideration in accordance with law.

For the sake of clarity, we would like to frame the question in these cases, which is as follows:

...2/-

"Whether, on the facts and circumstances of this case, the Tribunal was justified in directing the Assessing Officer to allow deduction of the losses at Rs.111/- per NCD as a business loss?"

In this connection, the High Court will also consider the effect of the assessee(s) retaining the detachable warrant and, if that is taken into account, whether there would be, at all, a trading loss? It is the case of the Department, before us, which is, of course, disputed by the assessee(s) that the High Court has failed to notice the market value of the shares at the time of issue of NCD. We express no opinion on the merits of the case. We expect the High Court to answer the above question in accordance with law.

Accordingly, civil appeals are disposed of with no order as to costs.

.....J.
(S.H. KAPADIA)

.....J.
(H.L. DATTU)

New Delhi,
January 19, 2010.