

IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 644/2007

**COMMISSIONER OF INCOME TAX Appellant
Through Mrs. P.L. Bansal, Advocate**

versus

**DHARMENDRA SHARMA Respondent
Through Dr. Rakesh Gupta with Ms. Poonam
Ahuja, Advocates.**

**CORAM:
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE DR. JUSTICE S.MURALIDHAR**

**O R D E R
28.11.2007**

**The Revenue is aggrieved by an order dated 12th October, 2006 passed by
the Income Tax Appellate Tribunal, Delhi Bench ?F?, New Delhi (the
Tribunal?)**

in ITA No. 2413/Del/2004 relevant for the Assessment Year 2001-2002.

**The case relates to the addition of an amount of Rs.10,37,737/- and
Rs.1,88,172/- made by the Assessing Officer on account of delayed
payment of**

**Provident Fund and Employees State Insurance respectively. According to
the**

**Assessee, the amount was paid within 2 to 4 days after the grace period
provided under Section 43B of the Income Tax Act, 1961 (the Act?)**

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**but before filing the return. According to the Assessee, it was at best a
technical default.**

The Assessing Officer did not accept the view of the Assessee and the Commissioner of Income Tax (Appeals) [CIT (A)] upheld the view of the Assessing

Officer. However, the Tribunal has reversed the decision of the CIT(A). Learned counsel for the Assessee has placed before us a decision of the Gauhati High Court in Commissioner of Income Tax v. George Williamson (Assam)

Ltd., [2006] 284 ITR 619(Gau). This decision was taken in appeal before the Supreme Court and by an order dated 7th March, 2007, the Supreme Court observed

that it was concerned with the law as it stood prior to the amendment of Section

43-B of the Act. The Assessee was entitled to claim the benefit provided under

Section 43-B of the Act for that period particularly in view of the fact that he

had contributed to provident fund before filing the return. Accordingly, the

SLP filed by the Revenue against the decision of Gauhati High Court was dismissed.

The decision of the Supreme Court is fully applicable to the facts of the present case in view of what we have already mentioned above.

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Under the circumstances, no substantial question of law arises for our consideration.

The appeal is dismissed.

ITA Nos. 642/2004, 644/2004, 717/2004 and 497/2005 which raise a similar issue be listed for directions on 29th November, 2007, so that they can be disposed of in terms of today's order.

MADAN B. LOKUR, J

S.MURALIDHAR, J
NOVEMBER 28, 2007
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