

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../ 2 0 0 8
CC 1 1 2 5 8 / 2 0 0 8

(From the judgement and order dated 0 2 / 0 4 / 2 0 0 8 in ITA No. 1 6 6 / 2 0 0 7 of The
HIGH C O U R T O F D E L H I A T N. D E L H I)

M/S TOYOT A MOTO R C O R P O R A T I O N Petitioner(s)

VER SUS

COMM R.O F INCOM E TAX Respondent(s)

With I.A.1 (C/delay in filing SL P)

Date: 2 5 / 0 8 / 2 0 0 8 This Petition was called on for hearing today.

CORA M :

HON' B L E Dr. JUS T I C E ARI J I T PA S A Y A T
HON' B L E DR. JUS T I C E MUKUN D A K A M SHA R M A

For Petitioner(s) Mr. Soli J.Sor a bjee, Sr. Adv.
Mr. Sanjay Kochar, Adv.
Mr. Samp ath, Adv.
Mr. S.Anant, Adv.
Mr. Krish a n Mahaj an, Adv.
Ms. Lak s h m i Iyengar, Adv.
Ms. Sandhya Goswa mi, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is dismissed in terms of the signed judgment.

(Sukhbir P a ul K au r)
Court Master

(Vijay Aggarwal)
Assistant Registr a r

(Signed Reportable Judgment is placed on the file)
I N T H E S U P R E M E C O U R T O F I N D I A
C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O. 5 3 1 3 O F 2 0 0 8
(Arising out of SL P (C) No.2 1 7 7 2 / 2 0 0 8 (CC No.1 1 2 5 8 / 2 0 0 8)

M/S. TOYOT A MOTO R C O R P O R A T I O N P E T I T I O N E R (S)

Versus

COMM N R . O F INCOM E TAX R E S P O N D E N T (S)

J U D G M E N T

Dr. ARI J I T PA S A Y A T , J .

Heard learned counsel for the petitioner.

Delay condoned.

Leave granted.

We are not inclined to interfere with the impugned order of the High Court. The High Court has held that the Assessing Officer had disposed the proceedings stating the penalty proceedings initiated in this case u/s 271C read with Section 274 of the Income Tax Act, 1961 are hereby dropped. According to the High Court, there was no basis indicated for dropping the proceedings. The Tribunal referred to certain aspects and held that the initiation of proceedings under Section 263 of the Income Tax Act, 1961 (in short, the I.T.Act) was impermissible when considered in the background of the materials purportedly placed by the assessee before the Assessing Officer. What the High Court has done is to require the Assessing Officer to pass a

-2-

reasoned order. The High Court was of the view that Tribunal could not have substituted its own reasonings which were required to be recorded by the Assessing Officer. According to the assessee all relevant aspects were placed for consideration and if the officer did not record reasons, assessee can not be faulted.

We do not think it necessary to interfere at this stage. It goes without saying that when the matter be taken up by the Assessing Officer on remand, it shall be his duty to take into account all the relevant aspects including the materials, if any, already placed by the assessee, and pass a reasoned order.

The appeal is dismissed with the aforesaid observations.

.....J .
(Dr.Arijit P a s a y a t)

.....J .
(Dr.Mukund a k a m S h a r m a)

New Delhi,
August 25, 2008