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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 421/2012

CIT

..... Appellant

Through Mr. Harpreet Singh Ajmani, Adv. for Mr. Deepak Chopra, sr. standing counsel

versus

ASIAN HOTELS LTD

..... Respondent

Through Mr. K N Ahuja, Adv.

+ ITA 422/2012, CM 11823/2012

CIT

..... Appellant

Through Mr. Harpreet Singh Ajmani, Adv. for Mr. Deepak Chopra, sr. standing counsel

versus

ASIAN HOTEL (NORTH) LTD.

..... Respondent

Through Mr. K N Ahuja, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.V.EASWAR

ORDER

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31.07.2012

In these appeals, the Revenue claims to be aggrieved by an order of the Income Tax Appellate Tribunal (ITAT) dated 18.11.2001 by which its appeals were allowed and the Assessee's liability for TDS in respect of the tips its employees received and were given, was determined. The Tribunal also held that the liability of Assessee to deduct tax under Section 201(1) is to the extent of tax which has not been paid by the deductee and that penalty had been separately provided for under Section 221 of the Act. The Tribunal restored the issue to the file of the Assessing Officer to redetermine the liability of the

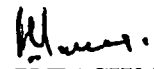
Assessee under Sections 201(1) and 201(1A).

Learned counsel for the appellant/Revenue urged that even though there is no grievance in these appeals, the Revenue wanted to protect itself since the Assessee's appeals are scheduled for hearing and that the Revenue wishes to place reliance on the decision in *CIT v. American Express* (ITA 74/2003, decided on 21.12.2011 by this Court).

This Court is of the opinion that since the question of law has been decided by the Tribunal in Revenue's favour, there is no reason for the filing of these appeals. Whatever contentions the Revenue wishes to rely upon or urge, in support of its case in the Assessee's appeals are in any event open to it under law.

The appeals and pending applications are accordingly dismissed.


S. RAVINDRA BHAT, J


R.V.EASWAR, J

JULY 31, 2012
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