

M/S. TOYOTA MOTOR CORPORATION

v.

COMMNR. OF INCOME TAX  
(Civil Appeal No. 5313 of 2008)

AUGUST 25, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDKAM  
SHARMA, JJ.]**

*Income Tax Act, 1961 – s. 263 – Proceedings under –  
Disposed of by Assessing Officer dropping the penalty  
proceedings – Tribunal holding that initiation of the  
proceedings were impermissible in the background of the  
materials placed by the assessee – High Court remanding  
the matter to Assessing Officer to pass a reasoned order – On  
appeal, held: Appeal does not warrant interference at this stage  
– Assessing Officer is required to take into account all the  
relevant aspects and materials and pass reasoned order.*

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 5313  
of 2008

From the final Judgment and Order dated 2.04.2008 of  
the High of Delhi at New Delhi in ITA No. 166 of 2007

Soli J. Sorabjee, Sanjay Kochar, Sampath, S. Anant,  
Krishan Mahajan, Lakshmi Iyengar and Sandhya Goswami for  
the Appellant.

The Judgment of the Court was delivered by

**Dr. ARIJIT PASAYAT, 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

- A Officer had disposed the proceedings stating the penalty proceedings initiated in this case u/s 271 C 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
- B 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 reasoned order. The High Court was of the view that Tribunal
- C 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
- D 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,

E already placed by the assessee, and pass a reasoned order.

The appeal is dismissed with the aforesaid observations.

K.K.T.

Appeal dismissed.