

THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 05.07.2010

+ **ITA 885/2009**

NEERAJ GUPTA Appellant

versus

COMMISSIONER OF INCOME TAX Respondent

Advocates who appeared in this case:

For the Appellant : Mr M.P. Rastogi with Mr R. Kumar and Mr K.N. Ahuja
For the Respondent : Ms Prem Lata Bansal

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE V.K. JAIN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J

1. This is an appeal under Section 260A of the Income-tax Act, 1961 (hereinafter referred to as 'the said Act') and it arises out of the order dated 30.01.2009 passed by the Income-tax Appellate Tribunal in ITA 386/Del/2005 in respect of the block period 01.04.1990 to 18.01.2001. The following substantial questions of law arise for consideration in this appeal:-

- “1. Whether, in the facts and circumstances of the case, the notice under Section 143(2) of the Income Tax Act, 1961 was issued beyond the prescribed period of limitation and as a

consequence thereof the block assessment order under 158 BC(c) of the said Act was bad in law ?

2. Whether, if the notice under Section 143(2) of the Income Tax Act, 1961 is held to have been issued within time, the block assessment order dated 30.07.2004 was barred by limitation?"

2. In an identical matter, in the case of Rajan Gupta v. Commissioner of Income-tax [ITA No.884/2009) decided by us today itself, we have answered the question No.1 above in favour the assessee and against the revenue. In view of the answer to question No.1, we did not feel it necessary to answer question No.2. Consequently, following our decision in Rajan Gupta v. Commissioner of Income-tax (ITA No.884/2009] decided today itself, we answer question No.1 in favour of the assessee and do not feel it necessary to answer question No.2.

3. The appeal stands allowed to this extent. There shall be no order as to costs.

BADAR DURREZ AHMED, J

V.K. JAIN, J

JULY 05, 2010

duH