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THE HIGH COURT OF DELHI AT NEW DELHI

WP (C) No 1622/1994

Judgment delivered on: 25.11.2004

BRIJ MOHAN GUPTA

...Petitioner

- versus -

COMMISSIONER OF INCOME TAX & ANR

...Respondent s

Advocates who appeared in this case:

For the Petitioner : Mr Krishan Mahajan with Mr Piyush Kalra
For the Respondents : Ms P.L. Bansal with Mr Ajay Jha

CORAM:-

HON'BLE MR JUSTICE B.C. PATEL, CHIEF JUSTICE
HON'BLE MR JUSTICE BADAR DURREZ AHMED

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?

CHIEF JUSTICE (ORAL)

1. This writ petition was filed against the order made by the Commissioner of Income Tax in exercise of revisional jurisdiction under Section 264 of the Income-Tax Act, 1961 (hereinafter referred to as 'the Act') on 25.08.1993, whereby the Commissioner confirmed the order of the penalty imposed on the assessee by the Assessing Officer under Section 271 (i) (a) of the



Act for the Assessment Year 1986-87. The revisional authority has examined the matter in detail.

2. It was contended by the assessee that the return was filed voluntarily and that there was reasonable cause for delay on the part of the assessee in filing the return of income. It was also submitted that the assessee was not allowed proper opportunity before levy of penalty. It was argued that consolidated notice was given.

3. The matter was examined by the Commissioner and so far as reasonable cause is concerned, it is pointed out that reasonable opportunity was given. It was indicated that in the facts and circumstances of the case and in absence of the cause and the material, it is to be presumed that the assessee being associated with business concern paying income-tax, the assessee was aware of his liability towards income tax. The Commissioner has arrived at a conclusion on appreciation of evidence that the contention of the assessee that he came to know of the fact only in 1989 from his counsel cannot be accepted. Thus, on appreciation of the material placed before the revisional authority by a reasoned order, the application has been disposed of. It is required to be noted that this being a petition under Article 227 of the Constitution of India, we are not



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sitting as a Court of Appeal. We cannot substitute our views in place of the Commissioner. When the Commissioner in exercise of the jurisdiction vested in him has come to a particular conclusion on the facts for which reasons are recorded, it would not be proper for us to exercise our writ jurisdiction. Hence, this petition is dismissed.

*B. Durrez***CHIEF JUSTICE***B. Durrez***BADAR DURREZ AHMED, J****November 25, 2004**

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****WPC/1622.94.saw**//final//**