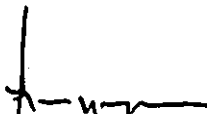





H.C.D.-I (a) Continuation Sheet

Sr. No.	Date	Orders
		<p>Officer with the direction that the claim made by the assessee for benefit under the said provisions may be examined and fresh orders passed after giving to the assessee an opportunity of being heard. The present appeal calls in question the correctness of the said order.</p> <p>We have heard Mr. Jolly counsel for the Revenue and Mr. Vora appearing for respondent-assessee. In so far as the petitioner's entitlement to the benefit of Section 11 is concerned, the issue stands concluded and the benefit finally denied to the assessee. The assessee has not it appears, made any grievance against the said denial by filing an appeal in this Court. That did not however prevent the assessee from making an alternative claim under Section 10 (22A) of the Act especially when a claim to that effect had been made before the Commissioner of Income Tax also as is evident from a reading of the order passed by him. Inasmuch as the Tribunal had allowed the assessee to raise an additional ground and make a claim under provisions of Section 10 (22A) it had not committed any error of law nor did the order passed by the Tribunal give rise to any substantial question of law for our consideration. The Tribunal had the jurisdiction to entertain an alternative claim and have the same investigated at the appropriate level. No question of law much less a substantial question of law arises for our consideration to</p> <p style="text-align: center;">ITA 238/2004</p> <p style="text-align: right;">page 2 of 3</p>



Sr. No.	Date	Orders
		<p>warrant admission of this appeal. This appeal accordingly fails and is h dismissed.</p> <p style="text-align: right;"> T.S. THAKUR, J</p> <p style="text-align: right;"> B.N. CHATURVEDI, J</p> <p>NOVEMBER 24, 2005 sa</p> <p style="text-align: center;">ITA 238/2004 page 3 of 3</p>