



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

Sr. No.	Date	Orders
		<p>* <b>IN THE HIGH COURT OF DELHI AT NEW DELHI</b></p> <p>+ <b>W.P.(C) 467-68/2005</b></p> <p><b>M/S HIND POCKET BOOKS P. LTD. .... Petitioner</b>  <b>Through Mr. Manoj Mehra with Mr. Rajeev Mehra, Advs.</b></p> <p><b>versus</b></p> <p><b>THE COMMISSIONER OF INCOME TAX ... Respondent</b>  <b>Through Mr. R.D. Jolly with Mr. Ajay Jha, Advs.</b></p> <p><b>CORAM:</b>  <b>HON'BLE MR. JUSTICE SWATANTER KUMAR</b>  <b>HON'BLE MR. JUSTICE MADAN B. LOKUR</b></p> <p><b><u>ORDER</u></b>  % <b>03.03.2005</b></p> <p><b><u>WP (C) No. 467-468/2005 &amp; CM No. 360/2005</u></b></p> <p>With the consent of the learned counsel for the parties, the writ petition itself is taken up for final hearing.</p> <p>Having heard the learned counsel for the parties, we do not consider it necessary for us either to state the facts in detail giving rise to the filing of the present writ petition or to deal with the various controversies raised in the</p> <p><b>W.P.(C) 467-68/2005</b></p>





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

Sr. No.	Date	Orders
		<p>present petition. In fact, the objection taken by the Respondents is to the very maintainability of the present writ petition under Article 226 of the Constitution of India in view of the statutory alternative remedy being available to the Petitioner under the provisions of the Income Tax Act.</p> <p>There is no dispute before us that the Order dated 12.10.2004 is appealable and the Petitioner has already filed an appeal which is stated to be pending before the Tribunal. The grievance of the Petitioner is that he has filed an application before the Commissioner of Income Tax (Appeals) for stay of the recovery and the Demand raised in furtherance to the order passed by the Assessing Officer as well as by the First Appellate Authority. The stay application is pending and has not been disposed of. On the other hand, the cheques deposited by the Petitioner are not encashed which would practically render his remedy infructuous on the facts of the present case.</p> <p>In the circumstances afore-stated, we dispose of the writ petition with liberty to the Petitioner to file an application for stay of enforcement of Demand against him before the Tribunal within 15 days from today. If such an application is filed within 15 days from today, we would have no doubt in our mind that the Income Tax Appellate Tribunal shall deal with the</p> <p><u>W.P.(C) 467-68/2005</u></p>



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

Sr. No.	Date	Orders
		<p>application in accordance with law and dispose of the same as expeditious as possible.</p> <p>Till 15 days the cheques deposited by the Petitioner will not be encashed in furtherance to the orders.</p> <p>The writ petition as well as application are accordingly stand disposed of.</p> <p style="text-align: right;"> <b>SWATANTER KUMAR, J</b></p> <p style="text-align: right;"> <b>MADAN B. LOKUR, J</b></p> <p><b>MARCH 03, 2005</b> m</p> <p><u><b>W.P.(C) 467-68/2005</b></u> <span style="float: right;"><u>Page 3 of 3</u></span></p>