



D-1 (a) Continuation Sheet

Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ W.P.(C) 2848/2005</p> <p>ASHOK KUMAR GUPTA Petitioner Through : Mr. D.M. Sinha, Advocate.</p> <p>versus</p> <p>COMMISSIONER OF INCOME TAX III Respondent Through : Mr. R.D. Jolly, Sr. Standing Counsel with Mr. Vishnu Sharma, Junior Standing Counsel.</p> <p>CORAM: HON'BLE MR. JUSTICE SWATANTER KUMAR HON'BLE MR. JUSTICE MADAN B. LOKUR</p> <p style="text-align: center;"><u>ORDER</u> 02.03.2005</p> <p>%</p> <p>Challenge in this petition under Article 226 of the Constitution of India is to the order dated 24th December, 2003 passed by the Commissioner of Income Tax, wherein all that was said by the competent authority was "in my opinion, it is not a fit case for waiver of interest". Besides this, no reason whatsoever was stated in the impugned order. The challenge to the impugned order by the petitioner is primarily on the ground of non-application of mind. Admittedly, the case was settled before the Settlement Commissioner and thereafter the petitioner has</p> <p><u>W.P.(C) No. 2848/2005</u></p>

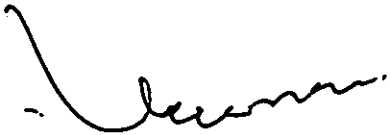
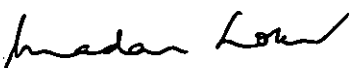


H.C.D.-I (a) Continuation Sheet

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		<p>applied for waiver of interest in accordance with the provisions of 220 (2A) of the Income Tax Act for the assessment years 1989-90 and 1990-91. This request of the petitioner was declined by the impugned order.</p> <p>The learned Counsel appearing for the respondent/Department has produced the records before us on the basis of which it is contended that, may be that the impugned order does not state any reasons but even on the file a report was submitted by the Income Tax Officer on 5th December, 2002, which was the basis of passing the impugned order.</p> <p>Admittedly, a copy of this report was never supplied to the petitioner and the petitioner had no opportunity to meet what was being taken against him. In our view, the impugned order, thus, would suffer from the vice of violation of principles of natural justice. It is obligatory upon the part of the Assessing Officer/Commissioner of Income Tax to furnish the material, which they propose to use against the petitioner, for denying a discretionary relief to him, as contemplated under the provisions of Section 220 (2A) of the Income Tax Act. Consequently, we set aside the order dated 24th December, 2002 with liberty to the</p>



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		<p>respondent/Department to pass an order afresh, in accordance with law and after furnishing the copy of the report to the petitioner.</p> <p>The petitioner shall appear before the Income Tax Commissioner on 21st March, 2005.</p> <p>Accordingly, the writ petition is disposed of with the above directions.</p> <p style="text-align: right;"> SWATANTER KUMAR, J</p> <p style="text-align: right;"> MADAN B. LOKUR, J</p> <p>MARCH 02, 2005 sk</p> <p><u>W.P.(C) No. 2848/2005</u></p>