



Sr. No.	Date	Orders
		<p data-bbox="363 280 1412 324">* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p data-bbox="363 448 678 492">+ ITA 292/2006</p> <p data-bbox="459 604 1348 705">COMMISSIONER OF INCOME TAX ..... Appellant Through Mrs. P.L. Bansal</p> <p data-bbox="654 772 758 817">versus</p> <p data-bbox="459 929 1316 1030">M/S IMPERIAL CABLES P.LTD. .... Respondent Through</p> <p data-bbox="459 1097 1228 1265"><b>CORAM:</b> <b>HON'BLE MR. JUSTICE MADAN B. LOKUR</b> <b>HON'BLE MR. JUSTICE VIPIN SANGHI</b></p> <p data-bbox="654 1332 837 1444"><b><u>ORDER</u></b> % 11.09.2006</p> <p data-bbox="363 1500 1476 1769">The Revenue is aggrieved by an order dated 7th July, 2005 passed by the Income Tax Appellate Authority, Delhi Bench 'C' in ITA No.1784/Del/2002 relevant for the assessment year 1998-99.</p> <p data-bbox="363 1870 582 1915">ITA 292/2006</p> <p data-bbox="1228 1870 1412 1915">Page 1 of 4</p>

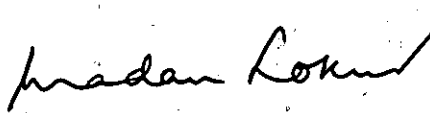
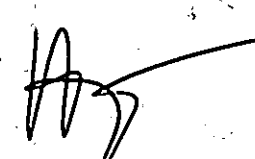


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		<p>The only issue that has been raised in this appeal is about the admissibility of additional evidence by the Commissioner of Income Tax (Appeals) under Rule 46A of the Income Tax Rules.</p> <p>It appears that before the Assessing Officer adequate opportunities were given to the Assessee to produce documents in support of expenditure towards payment of commission but the Assessee failed to do so. The Assessing Officer then proceeded to reject his claim.</p> <p>Feeling aggrieved, the Assessee filed an appeal before the CIT (A). He also moved an application under Section 46A of the Rules seeking to produce additional documents. Before entertaining the additional evidence, the CIT (A) wrote a letter to the Assessing Officer but no reply was received. Thereafter, a reminder was sent on 2nd August, 2001 but to no effect. Despite this, the CIT (A) gave yet another opportunity to the Assessing Officer by sending a letter dated</p>



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		<p>27th November, 2001 for his comments and the report of the Assessing Officer but again to no effect. Thereafter, it appears that some further reminders were also issued from time to time but there was absolutely no response from the Assessing Officer. Under the circumstances, the CIT (A) took the additional evidence on record. Thereafter, the CIT (A) considered issue on merits and allowed the claim of the Assessee.</p> <p>The Revenue thereafter preferred an appeal before the Tribunal, which was dismissed by the impugned order. The Tribunal, apart for noticing the aforesaid facts also noted the contention of the Assessee that the Assessee was prevented from producing a part of the documents desired by the Assessing Officer but had furnished a major part of the information/documents before the Assessing Officer.</p> <p>As already mentioned, the only contention of learned counsel for the Appellant is that the additional evidence ought not to have been taken on record by the CIT(A).</p> <p><i>ITA 292/2006</i></p>



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		<p>We find from the material placed before us that more than adequate opportunities were given to the Assessing Officer to respond to the application moved by the Assessee for placing additional evidence before the Appellate Authority. Since the Assessing Officer took no interest in the matter, the Appellate Authority had no option but to allow the application and to take the additional evidence on record. No grievance can be raised by the Revenue in this regard.</p> <p>In our view, no substantial question of law arises for our consideration.</p> <p>Dismissed.</p> <p style="text-align: right;"> MADAN B. LOKUR, J</p> <p style="text-align: right;"> VIPIN SANGHI, J</p> <p>SEPTEMBER 11, 2006 kapil</p> <p>ITA 292/2006</p>