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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 1350/2007**

USHA DRAGER P.LTD. Petitioner
Through: Mr. Naveen Chawla with Mr. Sandeep
Mittal, Advocate.

versus

COMMISSIONER OF INCOME TAX & A Respondent
Through: Mr. R.D. Jolly for R-1.
Mr. N.K. Kantawala with Mr. Sushant
Kumar & Mr. Aditya Mohan for R-2.

CORAM:

HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE MR. JUSTICE J.P. SINGH

ORDER% **23.02.2007**

It is stated by learned counsel for the Petitioner that the audited accounts have been filed before the Assessing Officer on 22.12.2006. Without going into further allegation about the dating of the impugned order, we consider it proper, specially in view of the decision of the Supreme Court in **Rajesh Kumar & Ors. v. DCIT & Ors.** JT 2006 (10) SC 76 to set aside the order dated 20/21.12.2006 directing the Petitioner to appear before the Assessing officer on 26.2.2007. Further notice as required be given by the Assessing Officer to the Assessee. After giving a hearing to the Petitioner on that day or on any other date as per the convenience of the Assessing Officer, the order shall be passed by the Assessing officer on the question of appointment of



a special auditor under Section 142 (2A) of the Income Tax Act.

Learned counsel for the Petitioner states that the Petitioner shall not object to the extension of time for six months from today. We order accordingly.

Learned counsel for the Petitioner states that any application made against Respondent No.2 is irrelevant since the relief is claimed against respondent No.1. He states that without prejudice to the disputes interse those allegations are withdrawn. This order shall not in any way influence the Assessing Officer in taking its final decision.

A handwritten signature in black ink, appearing to read 'Vikramajit Sen'.

VIKRAMAJIT SEN, J

A handwritten signature in black ink, appearing to read 'J.P. Singh'.

J.P. SINGH, J

FEBRUARY 23, 2007
srb