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% 22.09.2008

Present: Ms Rashmi Chopra for the Appellant.
Mr B. B. Ahuja, Sr Advocate with Mr D. K. Verma
for the Respondent.

+ ITA 1341/2007 & ITA 46/2008

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These appeals arise out of the Tribunal's order dated 12.12.2006 in respect of the assessment years 2000-2001 and 2001-2002. The issue relates to the imposition of penalty under Section 271 (1)(c). The appeals had been allowed in favour of the assessee on the short ground that the satisfaction, as contemplated by this Court in the case of CIT v. Ram Commercial Enterprises: 246 ITR 568 and CIT v. Vikas Promoters Pvt. Ltd :277 ITR 337, was not recorded by the Assessing Officer before initiating the penalty proceedings under Section 271(1)(c).

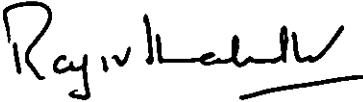
By virtue of the amendment to Section 271 by introduction of sub-Section (1B) with retrospective effect from 01.04.1989, the learned counsel for the parties are agreed that the matter needs to be considered by the Tribunal on merits. Consequently, we set aside the impugned order and remand the matter to the Tribunal for re-



consideration on merits. It is open to the parties to raise all issues that are available to them under law. The parties shall appear before the Tribunal on 11.11.2008 for directions.

These appeals stand disposed of.


BADAR DURREZ AHMED, J


RAJIV SHAKDHER, J

September 22, 2008
SR