



* **THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 21.10.2008

+ **ITA No. 1238/2008**

**THE COMMISSIONER OF INCOME TAX-II,
CENTRAL REVENUE BUILDING,
NEW DELHI**

..... Appellant

-versus-

JAGSON INTERNATIONAL LTD

..... Respondent

Advocates who appeared in this case:

For the Appellant	:	Mr Arvind Verma
For the Respondent	:	Mr Prakash Kumar

CORAM :-

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE RAJIV SHAKDHER**

1. Whether the Reporters of local papers may be allowed to see the judgment ?
2. To be referred to Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

BADAR DURREZ AHMED, J (ORAL)

+ CM 14854/2008 & CM 14855/2008 (exemption)

Allowed subject to just exceptions.

CMs stand disposed of.

ITA 1238/2008



1. This appeal is directed against the order dated 20.3.2008 passed by the Income Tax Appellate Tribunal in ITA No 13/D/2003 pertaining to the assessment year 1998-99. The only issue that is sought to be raised in the present appeal arises from the Tribunal's decision that the re-assessment proceedings under Section 147/143(3) of the Income Tax Act, 1961, were invalid.

2. The Tribunal has examined the facts and circumstances of the case and has arrived at the conclusion that the re-opening of the assessment which had been done under Section 147(3) was not justified as no new material had come before the Assessing Officer which could have enabled him to have reasons to believe that any income had escaped assessment. The Tribunal also noted that letter which was relied upon by the department as the new information/material coming into the possession of the Assessing Officer was a letter dated 28.8.99. The Tribunal noted that this could not constitute new information coming after the assessment had been completed in as much as the assessment order under Section 143(3) was passed after the date of the said letter. The Tribunal was, therefore, of the view that no new



information/material that had come to the Assessing Officer after completing the original assessment to form any belief about the escapement of the assessee's income and that such a purported belief was entirely based on re-appraisal or re-consideration of the material/information already available on record at the time of completion of the original assessments. Taking note of the Supreme Court decision in the case of **India and Easter Newspaper Society vs. CIT : 119 ITR 996 (SC)** the Tribunal accepted the assessee's plea that the re-opening of the assessments was not warranted under law. Consequently, the re-assessment completed by the Assessing Officer under Section 147/143(3) of the said Act was quashed.

3. The Tribunal has correctly appreciated the law. No interference with the decision of the Tribunal is called for. In any event, no substantial question of law arises for our consideration. The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

October 16, 2008
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