



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 16.01.2009

+ **ITA 1115/2008**

**THE COMMISSIONER OF INCOME
TAX DELHI(CENTRAL) -II**

... Appellant

- versus -

CAPITAL POWER SYSTEMS LIMITED

... Respondent

Advocates who appeared in this case:

For the Appellant : Mr R. D. Jolly

For the Respondent : Dr Rakesh Gupta with Ms Poonam Ahuja and Ms Aarti Saini

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE RAJIV SHAKDHER

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

BADAR DURREZ AHMED, J

1. The only issue sought to be raised in the present appeal is whether the Joint Director of Income-tax (Investigation), Unit-VII, New Delhi was empowered to issue the warrant of authorization for search and seizure operations under Section 132(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the said Act'). In a separate decision delivered by us today itself in the case of **CIT v. Pawan Kumar Garg** [ITA 881/2008], we held that there is no notification



any Joint Director of Income-tax (Investigation) to authorize action under Section 132(1) of the said Act. We also held that the notification issued on 11.10.1990 by the Central Board of Direct Taxes empowering certain specified Deputy Directors of Income-tax (Investigation) and Deputy Commissioners would not, by virtue of the mere re-designation of Deputy Directors of Income-tax as Joint Directors of Income-tax, as per notification dated 23.10.1998 issued by the Central Government under Section 117(1) of the said Act, by itself mean that a Joint Director of Income-tax is also empowered to authorize action under Section 132(1) of the said Act. A specific notification under Section 132(1) of the said Act would necessarily have to be issued by the Central Board of Direct Taxes if it wishes to empower any Joint Director to authorize action to be taken under Section 132(1) of the said Act. In the absence of any such specific empowerment by the board, we held that the Joint Director is not empowered to issue any authorisation. Consequently, following the said decision in *CIT v. Pawan Kumar Garg* [ITA 881/2008], the present appeal is liable to be dismissed.

It is ordered accordingly. There shall be no order as to costs.

BADAR DURREZ AHMED, J