



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

% Judgment delivered on : 06.02.2009

**ITA 480/2007**

**COMMISSIONER OF INCOME TAX  
DELHI – I, NEW DELHI**

**..... Appellant**

**versus**

**M/s ABHINANDAN INVESTMENT LTD**

**..... Respondent**

**Advocates who appeared in this case:**

For the Appellant : Mr Sanjeev Sabharwal & Mr Jagdish Rai Goel

For the Respondent : Mr.B.B. Ahuja, Sr. Advocate with Mr D.K. Verma

**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 ?

**RAJIV SHAKDHER, J**

1. This is an appeal preferred by the Revenue under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as the 'Act') against judgment dated 07.09.2006 passed by the Income Tax Appellate Tribunal (hereinafter referred to as the 'Tribunal') in ITA No. 4790/Del/2002 pertaining to assessment year 1995-96. By an order dated 07.11.2008 we had admitted the



appeal and framed the following questions of law for consideration o

Court:-

*“(i) whether the loss determined by the Assessing Officer, being different from the loss as claimed by the assessee in the return, can be carried forward in view of the provisions of Section 80 read with Section 139(3) of the Income Tax Act, 1961?”*

*“(ii) Whether in the facts and circumstances of the present case, the tribunal has erred in law in holding that the Assessing Officer had exceeded its jurisdiction in not allowing the carrying forward of the loss after the tribunal had issued directions in the earlier round?”*

2. In the connected appeal bearing ITA No. 335/2006 we have framed identical questions of law. By an order, passed today, in ITA No. 335/2006 we have dismissed the appeal of the Revenue. Both questions of law mentioned hereinabove have been answered in favour of the assessee and against the Revenue.

3. Resultantly, the present appeal will suffer the same fate and hence, is dismissed. There shall be no order as to costs.

**RAJIV SHAKDHER, J**

**February 06, 2009**  
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**BADAR DURREZ AHMED, J**