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% 18.11.2009

Present: Ms. P.L. Bansal, Adv. for the Appellant.
Mr. R.K. Mishra, Adv. for Respondent in ITA 1437/2006.
Mr. Sanat Kapoor and Ms. Swati Gupta, Advs. for
Respondent in ITA 21/2009

+ ITA No. 1437/2006
ITA No. 21/2009

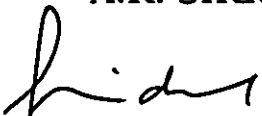
(Common Order)

* The Income Tax Appellate Tribunal has set aside the re-assessment proceedings, which were opened under Section 151(1)(ii) of the Income Tax Act, on the ground that no prior approval of Joint Commissioner of Income Tax was obtained which is an essential pre-condition for initiating the proceedings. Approval in fact was given by the Commissioner of Income Tax, though is a higher authority than the Joint Commissioner of Income Tax. However, in view of the provisions of Section 151 of the Income Tax Act, it was necessary to obtain the approval of the designated authority as statutorily provided namely the Joint Commissioner of Income Tax and even the approval of the higher authority would not serve the purpose. This issue is covered by the judgment of the Supreme Court in *Commissioner of Income Tax, Bihar and Orrisa vs. Maharaja Pratapsingh Bahadur of Gidhaur - 41 ITR 421*.



In view of the aforesaid no question of law arises
consideration. These appeals are accordingly dismissed.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

NOVEMBER 18, 2009

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