



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

+ **ITA No. 918/2010**

The Commissioner of Income Tax (Central-II) ..... Appellant

Through: Ms. Rashmi Chopra, Advocate

versus

Sudhir Thakran ..... Respondent

Through: Ms. Bhakti Pasrija, Adv.

**ORDER**

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**22.07.2010**

In this appeal preferred under Section 260A of the Income Tax Act, 1961 (for brevity 'the Act'), the challenge is to the order dated 22<sup>nd</sup> June, 2009 passed by the Income Tax Appellate Tribunal, Delhi Bench 'G', New Delhi (for short 'the tribunal') in IT(SS) A No. 08/(Del)/08 pertaining to block period 1.4.1986 to 6.1.1996.

2. The facts which are essential to be stated are that a search and seizure operation conducted in the case of the assessee. An order under Section 158BC was passed by the Assessing Officer on 28.11.1997. The dispute travelled up to the tribunal and the tribunal remanded the matter on certain issues to the Assessing Officer vide order dated 27.8.2004. In pursuance of



the order of remit, the assessment under Section 158BC read with Section 254/158BC was framed on 28.4.2005.

After the order of assessment was passed, the Commissioner of Income Tax took cognizance under Section 263 and cancelled the assessment framed by the Assessing Officer by order dated 20<sup>th</sup> December, 2006. The said order of the Commissioner was assailed by the assessee before the tribunal in IT(SS) A No. 35/D/07. The said order passed by the Commissioner of Income Tax was set aside by the tribunal. The said order passed by the tribunal came to this Court in ITA No. 663/2010 and ITA No. 774/2010. This Court on 19<sup>th</sup> July, 2010, after adverting to the facts of the case, dismissed the appeals.

As is perceivable, the tribunal has dismissed the appeal by giving the following reason:

*“3. Ld. DR was unable to controvert the contention of Ld. Counsel for the assessee.*

*4. On due consideration of the facts and circumstances, we find that impugned asstt. Order is passed in pursuance of an order passed u/s 263 by the Commissioner which this order has already been quashed. Therefore, the very genesis to pass this order does not survive and it deserves to be quashed. Accordingly the appeal of the assessee is allowed and the order passed in pursuance of Commissioner's order u/s 263 is quashed.”*



As the order passed by the tribunal on earlier occasion has been affirmed in ITA No. 663/2010 and ITA No. 774/2010, the present appeal has to pave the path of dismissal as the order of the tribunal has been given the stamp of approval and, accordingly, we dismiss the appeal *in limine*.

*Manmohan*  
**CHIEF JUSTICE**

*Manmohan*  
**MANMOHAN, J.**

JULY 22, 2010  
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