



22-23

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

+ ITA 695/2009 & 710/2009

THE COMMISSIONER OF INCOME TAX DELHI V ..... Appellant  
Through: Ms Sonia Mathur

versus

PUNJ LLYOD LTD. .... Respondent  
Through: Ms Kavita Jha with Mr Sriram Krishna

**CORAM:**

**HON'BLE MR JUSTICE BADAR DURREZ AHMED**  
**HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

**ORDER**

%

**03.02.2010**

These appeals arise against a common order passed by the Income Tax Appellate Tribunal on 17<sup>th</sup> October, 2008.

The assessee was served with a notice under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act') and pursuant thereto re-assessment proceedings were initiated and orders were passed. The Tribunal held that the notice and the proceedings under Sections 147/148 of the said Act were illegal. The Tribunal also decided against the Revenue on merits following its earlier orders. An appeal whereof was filed before this Court being ITA No.513/2009 in respect of the assessment year 2003-04. This Court dismissed the said ITA No.513/2009.

The appeals raising similar issues being ITA No.1205/2009 and



1278/2009 also came up before this Court on 25<sup>th</sup> November, 2009 which were also dismissed in view of the order passed by this Court in ITA No.513/2009. However, while passing the order dated 25<sup>th</sup> November, 2009, the Division Bench observed that as the appeals were being dismissed on merits itself, it would not necessary to go into the question of validity of re-opening of the proceedings under Sections 147/148 of the said Act. The Division Bench also made it clear that in case the order passed in ITA No.513/2009 is challenged by the Revenue and the Supreme Court reverses the same on merits, it would be open to the Revenue/appellant to seek revival of these appeals.

Consequently, the present appeals are also dismissed in view of our earlier order in ITA No.513/2009. We also adopt the same approach as the earlier Division Bench did in its order dated 25<sup>th</sup> November, 2009. We, however, clarify that in the eventuality the appeals are revived as indicated above, it would be open to the respondent/assessee to agitate the issue with regard to the validity of re-opening of the proceedings under Sections 147/148 of the said Act.

The appeals are dismissed.

  
BADAR DURREZ AHMED, J

  
SIDDHARTH MRIDUL, J

FEBRUARY 03, 2010/dn

ITA No.695/2009 & 710/2009

Page 2 of 2