5
$~
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 831/2010

THE COMMISSIONER OF
INCOME TAX-II ..... Appellant
Through: Ms. Sonia Mathur, Advocate

versus

MRS. KUSUM GUPTA ..... Respondent
Through: Mr. Salil Aggarwal, Advocate

% Date of Decision: 16th July, 2010

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

MANMOHAN, J (Oral)

CM APPL. 11720/2010

This is an application for condonation of delay of 197 days in re-filing the appeal.

For the reasons stated in the application, delay of 197 days in re-filing the appeal is condoned.

Accordingly, application stands disposed of.

ITA 831/2010

1. Present appeal has been filed under Section 260A of Income Tax Act, 1961 (for brevity "Act 1961") against the order dated 24th October, 2008 passed by the Income Tax Appellate Tribunal, Delhi (in short "ITAT") relating to the assessment year 2001-2002.

2. Ms. Sonia Mathur, learned counsel for revenue submitted that ITAT erroneously deleted the addition of Rs. 60,00,000/- made by the Assessing Officer on account of unexplained gifts received by the assessee during the relevant accounting period. She further submitted that ITAT had not appreciated all the surroundings circumstances as the gifts did not meet test of human probabilities.

3. However, we find that not only was the genuineness of the two gifts established inasmuch as registered gift deeds were produced but also the statements of two donors along with the assessee were recorded. In fact, the tribunal in the impugned order has concluded on facts that the identity and creditworthiness of the donors was proved beyond doubt.

4. In our opinion, as gifts were made by way of registered gift deeds as well as payments were made by way of account payee cheques and both the donors are income tax assesses, it cannot be said that the gifts are not genuine. Resultantly, the appeal stands dismissed in limine but with no order as to costs.

MANMOHAN, J

CHIEF JUSTICE

JULY 16, 2010
js