Reportable

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

ITA No.582 of 2009
with
ITA No.527 of 2009,ITA No.593 of 2009
ITA No.605 of 2009,ITA No.618 of 2009
ITA No.772 of 2009

Reserved On: August 19,2010
% Date of Decision: September 14, 2010

(1) **ITA No.582 of 2009**

The Commissioner of Income Tax . . . Appellant

Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel with Mr. Utpal Saha, Advocate.

VERSUS

Sh. Anil Minda . . .Respondent

Through: Dr. Rakesh Gupta, Advocate with Mr. Ashwani Taneja and Ms. Rani Kiyala, Advocates.

(2) **ITA No.527 of 2009**

The Commissioner of Income Tax . . . Appellant

Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel with Mr. Utpal Saha, Advocate.

VERSUS

Sh. Anil Minda . . .Respondent

Through: Dr. Rakesh Gupta, Advocate with Mr. Ashwani Taneja and Ms. Rani Kiyala, Advocates.

(3) **ITA No.593 of 2009**

The Commissioner of Income Tax . . . Appellant

Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel with Mr. Utpal Saha, Advocate.

VERSUS

Sh. Vandana Minda . . .Respondent

Through: Dr. Rakesh Gupta, Advocate with Mr. Ashwani Taneja and Ms. Rani Kiyala, Advocates.

(4) **ITA No.605 of 2009**

The Commissioner of Income Tax . . . Appellant

Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel with Mr. Utpal Saha, Advocate.

VERSUS

Sh. J.P. Minda . . .Respondent

Through: Dr. Rakesh Gupta, Advocate with Mr. Ashwani Taneja and Ms. Rani Kiyala, Advocates.

(5) **ITA No.618 of 2009**

The Commissioner of Income Tax . . . Appellant

Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel with Mr. Utpal Saha, Advocate.

VERSUS

Sh.J.P. Minda . . .Respondent

Through: Dr. Rakesh Gupta, Advocate with Mr. Ashwani Taneja and Ms. Rani Kiyala, Advocates.

(6) **ITA No.772 of 2009**

The Commissioner of Income Tax . . . Appellant

Through : Mr. Sanjeev Sabharwal, Sr. Standing Counsel with Mr. Utpal Saha, Advocate.

VERSUS

Ms. Gayatri Minda **. . .Respondent**

Through: Dr. Rakesh Gupta, Advocate with Mr. Ashwani Taneja and Ms. Rani Kiyala, Advocates.

CORAM :-

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J.

1. In all these appeals, an interesting question of law arises relating to the interpretation that needs to be given to the provisions of Section 132(1) of the Income Tax Act (hereinafter referred to as 'the Act') touching upon the limitation aspect contained therein. Following common question of law, in this behalf, is raised by the Revenue in all these appeals:

> "Whether the learned Income Tax Appellate Tribunal erred in holding that the assessment framed by the Assessing Officer is barred by limitation?"

2. The Income Tax Appellate Tribunal (hereinafter referred to as 'the Tribunal') has held that the assessment orders passed in the case of all these assessees were time barred, as the assessments were not completed within two years from the end of month in which the last authorization for search under Section 132 of the Act was issued. To appreciate this controversy, we have taken note of the

dates as they appear in ITA No.582 of 2009. The assessee is the s of J.P. Minda, who is in the Minda Group of business, engaged in manufacturing of various automobiles components. The two warrants of authorization under Section 132(1) of the Act for carrying out the search at bank locker with Canara Bank, Kamla Nagar, were issued on 13.03.2001 and 26.03.2001. Warrants which were executed on 13.03.2001 were executed on various dates, which are as under:

1.	13.03.2001	1st Authorization/search warrant issued
2.	19.03.2001, 20.03.2001, 26.03.2001, 27.03.2001, 28.03.2001 & 11.04.2001	Panchnama drawn/executed and search completed in regard to 1st search warrant

3. During the execution of the search warrants dated 13.03.2001, the Income Tax authorities got the information about a locker belonging to the assessee in a bank. Further, on 26.03.2001, second authorization was issued for searching this locker and this was executed on 26.03.2001 itself. It is, thus, clear from the aforesaid that in respect of first authorization given on 13.03.2001, which was for search at the office and residence of the assessee, it continued for some time and culminated only on 11.04.2001. However, as far as second search authorization is concerned, which was given on 26.03.2001, that was executed on the same day and Panchnama drawn on 26.03.2001.

4. Thereafter the notice under Section 158BC for filing blo return was issued. The assessee had filed his return and the assessment was completed by passing assessment orders in April 2003. The position was similar with all other assessees. The assessees filed appeal challenging the assessment, *inter alia*, on the ground that the assessment was time barred. According to the assessees, limitation was of two years as prescribed under Section 158BE of the Act, which was to be computed when Panchnama in respect of second authorization, i.e., on 26.03.2001 was executed. Since that Panchnama was drawn on 26.03.2001, two years period as provided under Section 158BE (b) come to an end by March 2003 and the assessment order in April 2003 was thus time barred. On the other hand, the plea of the Department was that since the last Panchnama, though related to search authorization dated 13.03.2001 was executed on 11.04.2001, limitation of two years was to be computed from this date and therefore, the assessment order passed was well within the limitation prescribed. In order to appreciate the controversy, we may reproduce the provisions of Section 158BE of the Act, which reads as under:

> "**Section 158BE**
> **TIME LIMIT FOR COMPLETION OF BLOCK ASSESSMENT.**
>
> (1) The order under section 158BC shall be passed - (a) Within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned

after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) **Within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed** in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be - (a) One year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997; and

(b) Two years from the end of the month in which notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

Explanation : In computing the period of limitation for the purposes of this section, the period - (i) During which the assessment proceeding is stayed by an order or injunction of any court, or

(ii) Commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section, shall be excluded.

Explanation 2 : For the removal of doubts, it is hereby declared that the authorisation referred to in sub-section (1) shall be deemed to have been executed, - (a) In the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;

(b) In the case of requisition under section 132A, on the actual receipts of the books of account or other documents or assets by the Authorised Officer."

5. The case of the assessee is predicated on the expression "la of authorization" and it is the date on which warrants in respect of this "last of authorization" would be the starting point of limitation. On this basis, it was argued that even if the first authorization dated 13.03.2001 was executed on a later date, i.e., 11.04.2001 that would be of no consequence and for the purpose of reckoning the limitation period, the first authorization is irrelevant and it is the "last of authorization", which has to be kept in mind. Last authorization in this case is dated 26.03.2001, which was executed on the same date and, therefore, the period of two years is to be counted from that date.

6. Learned counsel for the assessee had submitted that it is settled law that while construing taxation laws, more particularly relating to limitation; a strict and literal interpretation has to be made. This was so held in the case of ***K.M. Sharma*** vs. ***Income Tax Officer*** [254 ITR 772 (SC) in the following words:-

> "The provisions of a fiscal statute, more particularly one regulating the period of limitation, must receive a strict construction. The law of limitation is intended to give certainty and finality to legal proceedings and to avoid exposure to risk of litigation of litigants for an indefinite period on future unforeseen events. Proceedings which had attained finality under existing law due to bar of limitation cannot be held to be open for revival unless the amended provision is clearly given retrospective operation so as to allow upsetting of proceedings which had already concluded and attained finality."

7. He has also referred to another judgment of the Supreme Cou in the case of ***Nasiruddin and Ors.*** Vs. ***Sita Ram Agarwal*** [AIR 2003 SC 1543]. It was also submitted that when the period of limitation is statutorily prescribed, it has to be strictly adhered to and cannot be relaxed or departed from for equitable considerations. In support of this submission, the learned counsel relied upon the cases of Apex Court in ***India House*** vs. ***Kishan N. Lalwani*** [AIR 2003 SC 2084] and ***Municipal Board*** vs. ***State Transport Authority, Rajasthan*** [AIR 1965 SC 458]. In the latter case, the following passage was specifically read out:

> "In interpreting the provisions of limitation equitable considerations are out of place and the strict grammatical meaning of the words is the only safe guide. The words should not be read as 'from the date of the knowledge of the order' in the absence of clear indication to that effect. If the legislature had intended that an application may be made within 30 days from the date of intimation or knowledge of the order, it would have said so as it did in Sections 13, 15, 16 and 35. In the absence of any such thing the Court is bound to hold that the application will be barred unless made within 30 days from the date of the order by which the person is aggrieved."

8. It was also argued that when there is a conflict between law and equity, it is the law which has to prevail, in accordance with the Latin maxim ***"dura lex sed lex"***, which means ***"the law is hard, but it is the law"***. Equity can only supplement the law, but it cannot supplant or override it. [***Raghunath Rai Bareja*** vs. ***Punjab National Bank,*** 2007 (2) SCC 230.]

9. The thrust of the submission made by the learned counsel for the Revenue was altogether different. He submitted that the aforesaid provision contained in clause (b) of Section 158BE of the Act was not to be read in isolation, but along with the Explanation 2 thereto, which had been inserted by Finance (No.2) Act, 1998 with effect from 01.07.1995 and which reads as under:

> "*Explanation – 2* for the **removal of doubts,** it is hereby declared that the authorization referred to in sub-Section (I) shall be **deemed to have been executed** –
>
> (a) In the case of search **on the conclusion of search as recorded in the last Panchnama drawn**, in relation to any person in whose case the warrant of authorization has been issued;
>
> (b) In the case of requisition under Section 132A, on the actual receipt of the books of accounts or other documents or assets by the Authorized officer."

10. The submission of Mr. Sabharwal based on the aforesaid *Explanation* was that it was specifically inserted with a view to give last of the Panchnama as the starting point of limitation. He argued that the aforesaid *Explanation* makes it clear that the time for completion of Block Assessment under Section 158BC/158BE, is the conclusion of search/drawing of last Panchnama, which will be relevant and not the dates of issuance of various authorizations. The linkage is withdrawing of last of Panchnama and not to issuance of authorizations. The aforesaid was also made clear by the Memorandum explaining the Amendment in ***231 ITR 202 (St.)*** which reads as under:-

> "Clause-48 seeks to amend Section 158BE of the Income Tax Act relating to limit for completion of Block Assessment.
>
> The proposed amendment seeks to renumber the existing Explanation of sub-Section (2) of Section 158BE and to insert a new Explanation—2 thereafter to provide that the execution of an authorization for search under Section 132 or for requisition under Section 132A **will mean the date of conclusion of the search in respect of the authorization as recorded in the last Panchnama** in the case of a person in whose case the warrant has been issued. In the case of requisition under Section 132A, the execution of an authorization will mean the date when the authorized officer receives books, document or assets.
>
> The amendment proposed is of a clarificatory in nature.
>
> The proposed amendment will take effect form 1st July, 1995."

11. According to Mr. Sabharwal, if the contention of the assessee is accepted, the very purpose of introducing the *Explanation* would become redundant. His argument was that the linkage of time/limitation of the completion of search in the context of Block Assessment is logical and rational. It is **rational** for the reason that unless Assessing Officer has completed search, obtained all the material, has custody of relevant material and has overall picture, he cannot frame Block Assessment. Therefore, it is only when all material is made available to the Assessing Officer (on completion of last search) that the limitation would run against the Assessing Officer and it surely cannot run from a date interior to the same as he is under **disability** to initiate Assessment. The issuance of

authorization, execution of said authorization by drawing la Panchnama and making available complete search material to the AO for Block Assessment cannot be completed as Chapter XIVA beginning with authorization under Section 132(1) and framing of Block Assessment is **sequential** and unless the first stage of collecting material is completed the next stage of framing block assessment cannot begin or time to frame assessment begin to run. Since the Block Assessment is a single continuous and homogenous process [***State of Maharashtra*** vs. ***NC Bajaj***, 201 ITR 315 (Bombay)] what is to be looked at is not a particular authorization (which will not lead to obtaining complete material for Block Assessment) but **all authorization(s) together** as common and determining the limitation from the conclusion of search by drawing of last of Panchnama on any of the authorizations.

12. The logic of the above in the context of Block Assessment is obvious as before the said time neither **search is concluded** nor **all material** can be made available to the Assessing Officer.

13. We have given our utmost consideration to the submissions made by the counsel for the parties. No doubt, the provisions of Sub Section (1) of Section 158 BE if read in isolation, it gives an indication that the period of two years is to be counted from the end of the month in which "last of the authorization" for search under Section 123 was executed. Here the world 'last' is relatable to authorization and not to the execution. Therefore, if we have to

interpret clause (b) of sub Section (1) of Section 158 BE of the A one may be inclined to conclude that two years period is to be counted from the date when last authorization was executed. The question, however is, whether explanation which was inserted by Finance Act, 1998 effective from 1st July, 1995 makes any difference? To put it otherwise, whether such an explanation clarifies the position contained in clause (b) of sub Section (1) of Section 158 B?

14. By means of this Explanation-2, a deeming provision is added. Therefore, it creates a fiction in so far as the authorization referred to in sub section (1) is to be treated as executed.

15. The Supreme Court in the case of ***G. Viswanathan*** Vs. ***The Hon'ble Speaker, Tamil Nadu Legislative Assembly, Madras and another***, AIR 1996 SC 1060 held as under:-

> "The scope of the legal fiction enacted in the explanation (a) to paragraph 2(1) of the Tenth Schedule assumes importance in this context. By the decision of this Court it is fairly well settled that a deeming provision is an admission of the non-existence of the fact deemed. The Legislature is competent to enact a deeming provision for the purpose of assuming the existence of a fact which does not even exist. It means that the Courts must assume that such a state of affairs exists as real, and should imagine as real the consequences and incidents which inevitably flow there from, and give effect to the same.
>
> The deeming provision may be intended to enlarge the meaning of a particular word or to include matters which otherwise may or may not fall within the main provision. The law laid down in this regard in East End Dwellings Co. Ltd. case (1952) AC 109 : (1951) 2 All. E.R. 587 has been followed by this Court in a number of cases,

beginning from State of Bombay v. 1953CriLJ1049 and ending with a recent decision of a three Judge Bench in M. Venugopal v. (1994)ILLJ597SC . N.P. singh, J., speaking for the Bench stated the law thus at page 329 :

The effect of a deeming clause is well-known. Legislature can introduce a statutory fiction and courts have to proceed on the assumption that such state of affairs exists on the relevant date. In this connection, one is often reminded of what was said by Lord Asquith in the case of East End Dwellings Co. Ltd. v. Finsbury Borough Council that when one is bidden to treat an imaginary state of affairs as real, he must surely, unless, prohibited from doing so, also imagine as real the consequences and incidents which inevitably have flowed from it one must not permit his "imagination to boggle" when it comes to the inevitably corollaries of that state of affairs."

16. The Apex Court in the case of ***Ashok Leyland Ltd. v. State of T.N.*** (2004) 3 SCC 1) held that legal fiction must be given its full effect when the conditions precedent therefore are satisfied and not otherwise. In the case of ***Mancheri Puthusseri Ahmed v. Kuthiravattam Estate Receiver*** (1996) 6SCC 185, it was held as under:-

"Rule of construction of provisions creating legal fictions is well settled. In interpreting a provision creating a legal fiction the court is to ascertain for what purpose the fiction is created, and after ascertaining this, the court is to assume all those facts and consequences which are incidental or inevitable corollaries to the giving effect to the fiction. But in so construing the fiction it is not to be extended beyond the purpose for which it is created, or beyond the language of the section by which it is created. It cannot also be extended by importing another fiction. In this connection we may profitably refer to two decisions of this Court.

> In the case of CIT v. Shakuntala [1961] 43ITR 352(SC) a three-Judge Bench of this Court speaking through S.K. Das, J., made the following pertinent observation in paragraph 8 of the Report:
>
> The question here is one of interpretation only and that interpretation must be based on the terms of the section. The fiction enacted by the legislature must be restricted by the plain terms of the statute."

17. Thus, when we look into the matter in that context and find that there was a definite purpose of inserting the said Explanation-2, we have to give an interpretation which sub-serves the purpose and shall not defeat the same. No doubt, in taxing statutes, literal interpretation is to be preferred more particularly when the language is clear and capable of one meaning and while giving effect to literal interpretation, one has not to see the consequences it would lead to. However, in the present case, application of this very rule is conditioned by the explanation contained in the same provision, and, therefore, sub Section (1) is to be read in accordance with the intention expressed in Explanation-2. Moreover, the Explanation-2 categorically states that authorization referred to in sub Section (1) shall be deemed to have been executed, in the case of search, on the conclusion such as recorded in the last panchnama drawn in relation to any person in whose case, warrants of authorization was issued. By this deeming provision, authorization referred to in sub Section (1) would be that authorization which is executed on the conclusion of search as recorded in the last panchnama. Therefore, by this deeming provision, even an authorization which may not be

otherwise the last authorization would become last authorization, that is executed and if the panchnama in respect thereto is drawn last. Therefore, the purport of this explanation is to count the period of limitation of two years from the date when the last panchnama was drawn in respect of any warrant of authorisation, if there were more than one warrants of authorization. This interpretation would be in consonance with the intent and purpose of the legislature on behalf of the said explanation.

18. We are agree with Mr. Sabharwal, learned counsel appearing for the revenue that the very purpose of introducing the Explanation would become redundant if the contention of the assessee is accepted.

19. Block Assessment and timely Block Assessment are in furtherance of search warrants issued under Section 132(1) of the Act. The authorizations themselves are issued by the Director General on the *prima facie* satisfaction of undisclosed income for which admittedly as many warrants to achieve the above objective are issued depending upon where all material which would provide evidence of undisclosed income is located. Hence, at the time of issuance of warrants concern is of obtaining all the material necessary for preventing tax evasion, and hence depending on the material found during the search by various search parties one or the other search warrants may be issued prior or subsequent in time

which will not make any difference to the objective of bringing to ta undisclosed income.

20. Thus keeping in view the objective of the search of unearthing of the undisclosed income and preventing tax evasion for which admittedly as many search warrants can be issued than any other provisions which does not effectuate aforesaid objective being the primary objective has to be read down and interpreted keeping in view the purposive interpretation. Explanation-2 clearly lays emphasis on the "conclusion of search". The purpose is to collect all relevant material, during search, in order to enable the Assessing Officer to undertake the exercise of block assessment.

21. It is but logical that any point of execution of warrants on the last panchnama drawn would be starting point of time of limitation because at that point of time the search party has in its custody the complete material and is in a position to evaluate disclosed and undisclosed material/income and not before and only then issue notice for Block Assessment under Section 158 BD (C) and/or carry forward Block Assessment is to be issued. The courts, have construed 'conclusion of the search' to mean when there is scrutiny of all the material collected which may be searched or otherwise and when has resulted in drawing of last panchnama as the conclusion of the search. (See 319 (AT) 197 (SB), 238 ITR 501 at 504 (Kerala) and 279 ITR 298 (Del).

22. The primary function of the Court is to find out the intention the legislature. According to us, the legislature has manifested its intention eloquently, in the manner stated by us above, by inserting Explanation-2.

23. In ***State of Tamil Nadu*** *Vs.* ***Kodaikanl Motor Union (P) Ltd.*** 2 SCR 927, the Supreme Court referring to ***K.P. Varghese*** *Vs.* ***I.T.O. 131 ITR 597 (SC) and Luke Vs. Inland Revenue Commissioners*** (1964) 54 ITR 692 observed:-

> **"The courts must always seek to find out the intention of the legislature. Though the courts must find out the intention of the statute from the language used, but language more often than not is an imperfect instrument of expression of human thought. As Lord Denning said it would be idle to expect every statutory provision to be drafted with divine prescience and perfect clarity. As Judge Learned Hand said, we must not make a fortress out of dictionary but remember that statutes must have some purpose or object, whose imaginative discovery is judicial craftsmanship. We need not always cling to literalness and should seek to endeavour to avoid an unjust or absurd result. We should not make a mockery of legislation. To make sense out of an unhappily worded provision, where the urpose is apparent to the judicial eye 'some' violence to language is permissible."**

24. The Apex Court has opined, time and again, that in a taxation statute where literal interpretation leads to a result not intended to sub-serve the object of the legislation another construction in consonance with the object should be adopted. { ***Keshvji Ravji and***

Co. and others *Vs.* ***Commissioner of Income Tax*** *183 ITR (SC)}.*

25. In the present case what we find is that the legislature noticed that literal interpretation given to clause (b) of sub Section (1) of Section 158 BE of the Act may lead to the result not intended to sub-serve the object and, therefore, introduced Explanation 2. This purpose sought to be achieved by the legislature cannot be defeated and has to be given effect to. In ***Oxford University Press*** Vs. ***Commission of Income Tax***, *165 CTR (SC) 629,* the position in this behalf was explained in the following manner:-

> "**Giving a purposeful interpretation of the provision it will be reasonable to hold that in order to be eligible to claim exemption from tax under section 10(22) of the Act the assessee has to establish that it is engaged in some educational activity in India and its existence in this country is not for profit only. This interpretation of section 10(22) neither causes violence to the language of the provision nor does it amount to re-writing the same. On the other hand it only gives a harmonious construction of the provision which subserves the object and purpose for which the provision is intended to serve.** This Court noticed the basic principle of interpretation of statutory provisions. Noticing the words of Judge Learned Hand, it was said that the task of interpretation of a statutory enactment is not a mechanical task. It is more than a ??? ???carding of mathematical formulae because few words possess the precision of mathematical symbols. We must not adopt a strictly literal interpretation of Section 52(2) but construe its language having regard to the object and the purpose which the legislature had in view in enacting the provision and in the context of the setting in which it occurs. The literal construction would lead to manifestly unreasonable and absurd

consequences. It is well recognised rule of construction that a statutory provision must be so construed if possible that absurdity and mischief may be avoided. It was held that construction suggested on behalf of the revenue would lead to a wholly unreasonable result which could never have been intended by the legislature. It was said that the literalness in the interpretation of Section 52(2) must be eschewed and the court should try to arrive at an interpretation which avoids the absurdity and the mischief and makes the provision rational, sensible, unless of course, the hands of the court are tied and it cannot find any escape from the tyranny of literal interpretation. It is said that it is now well-settled rule of construction that where **the plain literal interpretation of a statutory provision produces a manifestly absurd and unjust result which could never have been intended by the legislature, the court may modify the language used by the legislature or even `do some violence' to it, so as to achieve the obvious intention of the legislature and produce a rational construction.** In such a case the court may read into the statutory provision a condition which though not expressed, is implicit in construing the basic assumption underlying the statutory provision. Bearing in view these principles the court held that on a fair and reasonable construction of Section 52(2) the court would read into it a condition that it would apply only where the consideration for the transfer is understated or in other words, the assessee has actually received a larger consideration for the transfer than what is declared in the instrument of transfer and it would have no application in case of a bona fide transaction where the full value of the consideration of transaction is correctly declared by the assessee. Thus, a condition though not expressed, was read into Section 52(2) constituting the basic assumption underlying the said sub-section."

26. We are unable to accept the submission of the learned counsel for the assessee that the purpose of inserting Explanation-2 was limited to setting at rest the controversy regarding the meaning of

"execution". That may be an additional factor. When we find th the contention advanced by the learned counsel for the assessee in interpreting the aforesaid provision would defeat the very purpose, we have to eschew such a course of action.

27. The aforesaid discussion leads us to conclude that the Tribunal erred in holding that the assessment order framed by the AO was barred by limitation. We thus answer the question in favour of the revenue and against the assessee. As a result, we hold that the assessment orders passed by the Assessing Officer were within the period of limitation. We, therefore, set aside the impugned order of the Tribunal in all these cases and remit the cases back to the Tribunal to decide the appeal of the assessee on merits.

(A.K. SIKRI)
JUDGE

(REVA KHETRAPAL)
JUDGE

SEPTEMBER 14, 2010.
pmc/skb