



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

+ ITA 1424/2010

COMMISSIONER OF INCOME TAX Appellant
Through Ms. Sonia Mathur, Advocate

versus

INDERPAL CHAWLA Respondent
Through None

Date of Decision : 21st September, 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.

J U D G M E N T

MANMOHAN, J

1. The present appeal has been filed under Section 260A of Income Tax Act, 1961 (for brevity “Act, 1961”) challenging the order dated 11th September, 2009 passed by the Income Tax Appellate Tribunal (in short “Tribunal”) in ITA No. 3091/Del/2009 for the Assessment Year 2005-2006.

2. Ms. Sonia Mathur, learned senior standing counsel for Revenue submitted that the Tribunal had erred in law in upholding the action of Commissioner of Income Tax (Appeals) [in short “CIT(A)”] of admitting the additional evidence filed by the assessee during the appellate proceedings in contravention of Rule 46A of Income Tax



Rules, 1962. She further submitted that Tribunal had erred in law upholding the reduction in the addition made by the Assessing Officer (in short “AO”) on account of unexplained income under Section 68/69 of Act, 1961, from ₹ 29,80,995/- to ₹ 93,282/- .

3. Having heard Ms. Sonia Mathur, learned counsel for Revenue and upon a perusal of the file, we are of the view that admission of the additional evidence at appellate stage is well within the legal parameters as laid down in Rule 46A of the Income Tax Rules, 1962. In fact, the additional evidence was forwarded to A.O for his remand report and the same was verified by A.O in the remand proceedings.

4. Further, in the remand proceedings neither the A.O made any averment that the deposit in the saving bank account was an amount other than the sale proceeds of the assessee’s business nor did he make any other adverse finding in regard to the said deposit. Consequently, we do not find any legal infirmity in the action of the two authorities below in reducing the addition to ₹ 93,282/- being the amount of ‘peak’ credit in the account of the assessee in IDBI.

5. Thus , the present appeal, being bereft of merit, is dismissed in *limine*.

MANMOHAN, J

CHIEF JUSTICE

SEPTEMBER 21, 2010

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