



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

% Judgment delivered on: 16th February, 2010

+ **ITA No.581/2009**

**RAJIV MARDA
SON OF SHRI R.N. MARDA
R/O 3C, COURT LANE, CIVIL LINES
DELHI-110 054**

..... Appellant

- versus -

1. **THE COMMISSIONER,
INCOME TAX (APPEALS)-I,
NEW DELHI**

2. **DEPUTY COMMISSIONER
INCOME TAX
CENTRAL CIRCLE-5
NEW DELHI-110 001**

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr S.K. Bhaduri with Mr S.P. Pandey
For the Respondent : Mr Subhash Bansal

CORAM:

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

1. Whether reporters of local papers 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?

BADAR DURREZ AHMED, J (ORAL)

1. The only ground taken by the appellant/assessee in this appeal is with regard to the finding of the Tribunal in respect of ground



No.6 which has been discussed in paragraphs 8 to 11 of the impugned order dated 26th September, 2008 passed by the Tribunal in ITA No.89/Del./2008 in respect of the block period 1st April, 1998 to 4th April, 2008. An addition of Rs 60,000/- has been made on the basis of a document “Annexure A-10” which was found during the search operation. According to the appellant/assessee the said sum of Rs 60,000/- was the sale consideration of a transaction carried out between M/s Keerthana Creations and M/s S.J. Designs with which the appellant/assessee had nothing to do. The learned counsel for the appellant drew our attention to Annexure A-4 to the appeal before us which is a letter issued by M/s Keerthana Creations to the Assistant Commissioner of Income Tax on 14th June, 2007, clearly indicating that no commission service charges had been paid to Mr Rajeev Marda (Proprietor of the assessee herein) inasmuch as the dealing of M/s Keerthana Creations was directly with M/s S.J. Designs.

2. The learned counsel for the appellant/assessee states that the said letter from M/s Keerthana Creations dated 14th June, 2007 was before the Tribunal, however, due credence has not been given to this letter, although there is a mention of this in paragraph 10 of the impugned order.

3. We feel that this aspect of the matter has not been considered in the correct perspective by the Tribunal and, therefore, the finding insofar as ground No.6 is concerned, is set aside and to this limited extent we remit



the matter to the Tribunal to examine the issue on facts and return a finding thereon after hearing the parties.

4. The appeal stands disposed of accordingly.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

FEBRUARY 16, 2010

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