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

+ **ITA No. 1405/2008**

CIT Appellant
Through: Ms. Prem Lata Bansal, Advocate.

versus

Sh. Ranjeet Singh Respondent
Through: Mr. Salil Kapoor, Mr. Sanat Kapoor and
Mr. Ankit Gupta, Advocates.

AND

+ **ITA No. 1408/2008**

CIT Appellant
Through: Ms. Prem Lata Bansal, Advocate.

versus

Sh. Ranjeet Singh Respondent
Through: Mr. Salil Kapoor, Mr. Sanat Kapoor and
Mr. Ankit Gupta, Advocates.

% **DATE OF DECISION: September 30, 2010**

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

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

J U D G M E N T (O R A L)



: **A.K.SIKRI, J.**

1. The admitted facts are that the respondent-assessee is assessed to tax and had been filing his returns regularly before DCIT, Circle 21 (2) at Delhi. The Income Tax Officer, Ward-2(2), Ghaziabad issued a notice to the assessee under Section 148 of the Act for the assessment year 1998-99. This was on the basis that certain land situated at Ghaziabad, which belonged to the assessee had been acquired and the assessee had received compensation of ₹ 25,80,678/- on 28th January, 1998 and interest thereupon amounting to ₹ 13,04,939/- on 11th February, 1998 but the assessee had not filed any income tax return showing the aforesaid income. On receipt of this notice, the assessee informed the ITO, Ward – 2(2), Ghaziabad, that the assessee had already filed his return of income for the relevant year with DCIT, Ward – 21 (2), Delhi. On receipt of this information, the ITO at Ghaziabad transferred the case to the ITO, Ward – 40 (1) and finally to DCIT, Circle 40 (1), who framed the assessment under Section 148/143 (3) of the Act. The Income Tax Appellate Tribunal quashed the notice under Section 148 of the Act issued by the ITO, Ghaziabad on the ground that when the assessee was assessed to tax at Delhi and was filing his returns here then the ITO, Ghaziabad, had no jurisdiction to issue such a notice.

2. It has come on record that the assessee was ordinarily a resident of Delhi. He had, of course, some property in Ghaziabad which was



clothe the ITO at Ghaziabad with the jurisdiction to issue notice to the assessee. The other reason for quashing of the notice by the Tribunal was that the approval for reopening the assessment was granted by CIT, Ghaziabad, whereas the appropriate authority was the Additional Commissioner of Income Tax under the Act. The ITAT while quashing the notice has recorded the following findings: -

“5. We have heard both the parties and perused the material available on record. We have also gone through the relevant assessment records. In this case notice under Section 148 of the Act was issued by Income-Tax Officer, Ward:2(2), Ghaziabad on 30th March, 2005. From the reason recorded in form no.ITNS 10, we find that the approval to reopen assessment was granted by Ld. CIT, Ghaziabad, on 30th March, 2005, which was routed through the officer of Addl. CIT, Range :2, Ghaziabad. The proposal was sent by the assessing officer on 28th March, 2005. From the records we also find that the return of income for assessment year 1998-99 was filed with the DCIT, Circle : 21 (2), New Delhi, on 09-06-1999. The DCIT, Circle 21 (2), processed the return of income u/s 143(1) (a) vide intimation dated 29-06-1999 granting refund of ₹ 95,686/-. These facts are not in dispute.”

3. Thus, only on the ground that there was no approval by the appropriate authority, i.e. the Additional Commissioner, we are of the opinion that the order of the Tribunal does not call for any interference. This aspect squarely stands covered by the judgment of the Supreme Court in the case reported as *Commissioner of Income Tax, Bihar and Orissa vs. Maharaja Pratap Singh Bahadur of Gidaur*, [1961] 41 ITR



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421. We are therefore of the opinion that no question of law arises. The appeal is dismissed.

4. We clarify that on the first aspect, we have not expressed any opinion.

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A.K. SIKRI
(JUDGE)

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REVA KHETRAPAL
(JUDGE)

September 30, 2010
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