

IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 742/2006

COMMISSIONER OF INCOME TAX XI Appellant
Through Ms.Sonita Mathur, Advocate

versus

INDERPAL MALHOTRA Respondent
Through Mr.Prakash Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S. MURALIDHAR

O R D E R

11.10.2007

1. The Revenue is aggrieved by an order dt. 31st May, 2005 passed by the Tribunal, Delhi Bench 'B', in ITA No. 416/Del/1996 relevant for the asst. yr. 1992-93.

2. The only issue that arises in this case is whether notice under s. 143(2) was served on the assessee within the period of limitation.

3. It transpires from a perusal of the record of the case that the notice was actually issued on 30th Nov., 1993 by registered post, which was the last date of limitation. There is no way that the notice could

have been received by the assessee on the same day unless the notice was sent by hand, which is not so in the present case.

4. In CIT vs. Vardhman Estate (P) Ltd. (2007) 208 CTR (Del) 251 : (2006) 287 ITR 368 (Del) , a notice was sent by speed-post one day before the period of limitation was to expire, that is, on 30th Oct., 2002 and the contention urged by the Revenue in that case was that the notice sent should be deemed to have been served on the assessee. This argument was rejected by this Court and it was made clear that what is required by the statute is not merely the despatch or issuance of the notice but its actual service.

5. Since in the present case it is admitted that as a matter of fact, notice was issued by registered post on the last day of the period of limitation and by no other method, there was no possibility of it being served in time. No substantial question of law arises. Dismissed.

MADAN B. LOKUR, J

OCTOBER 11, 2007 S. MURALIDHAR, J kapil