

IN THE HIGH COURT OF DELHI AT NEW DELHI

38.

ITA No. 695 of 2007

THE COMMISSIONER OF INCOME TAX V CENTRAL REVENUE BUILDING

..... Appellant

Through Ms. P.L.Bansal, Advocate.

Versus

NEERU GAMBHIR PROP. NEERU MARKETING Respondent

Through Mr. V.P.Gupta and Mr. Basant Kumar,

Advocates.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S. MURALIDHAR

O R D E R

09.10.2007

1. Admit.

2. After hearing learned counsel for the parties, the following substantial question of law is framed :

"Whether Income-tax Appellate Tribunal ('Tribunal') was justified in law in holding

that in view of

absence of the IT authority i.e. 'Addl. CIT' in the definition contained in s. 2(7A) of

the Act, an Addl.

CIT cannot be an authority to exercise or perform all or any of the powers and functions of an AO to make an assessment of income and thereby quashing the assessment made by the Addl. CIT ?"

3. Filing of paper book is dispensed with.

4. In view of our order dt. 24th Aug., 2007 in CIT vs. Bindal Apparels (IT Appeal No. 1706 of 2006)

[reported in (2008) ??? CTR (Del) ??? —Ed.] the question of law is required to be answered in the

negative, that is, in favour of the Revenue and against the assessee. The matter has not been dealt with

by the Tribunal on merits. Therefore, we remand the matter to be heard by the Tribunal on merits.

5. Parties will appear before the Tribunal on 14th Nov., 2007.

6. This order will cover the order passed by the Tribunal in ITA No. 2157/Del/2004 and CO No. 244/Del/2006.

7. Learned counsel for the Revenue says that she will pay the additional Court fee within two weeks.

8. The appeal is disposed of accordingly. Order dasti to counsels for the party.

MADAN B. LOKUR, J

S. MURALIDHAR, J

OCTOBER 09, 2007