

IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 319/2009

**RAJIV KUMAR GUPTA Appellant
Through Dr,Rakesh Gupta with
Ms Aarti Saini, Advocate**

versus

**COMMISSIONER OF INCOME TAX, DELHI ...Respondent
Through Mr R.D.Jolly, Advocate**

CORAM:

**HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE MR. JUSTICE RAJIV SHAKDHER**

O R D E R

03.03.2009

CM No.3070/2009 (exemption)

Allowed, subject to all just exceptions.

ITA 319/2009

There are concurrent findings against the Appellant that the explanation tendered by him that the sum of Rs 2.85 lacs belonged to Cain Technology India Pvt.Ltd. (in short 'Cain') was an afterthought. Learned counsel for the Appellant has emphasized upon Question No.19 put to him during the search, which is, to the effect that ?during the course of search operation cash of Rs.3,76,000/- was found at your residence. Please explain the source with documentary evidence.? The answer which the Assessee gave made no reference to Cain.

ITA 319/2009 Page 1 of 2

The answer given read as follows:- ?the money belongs to savings of my entire family over a period of time and I will give the supporting evidence later on.?

Furthermore, at the time of the search the books of accounts were not made available. The statement of cashbook account produced at the time of the assessment proceedings showing availability of funds with Cain as correctly, determined by the Tribunal, was an afterthought.

Therefore, taking into account the circumstances noted in the orders of the authorities below and the response to the question referred to above persuades us to conclude that there is no perversity in the findings of the fact arrived at in the impugned Judgement. No substantial question of law arises for our consideration.

Dismissed.

VIKRAMAJIT SEN, J.

RAJIV SHAKDHER, J.

MARCH 03, 2009

Nt

ITA 319/2009 Page 2 of 2

12