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

+ ITA 1550/2010

THE COMMISSIONER OF
INCOME TAXThrough: Appellant
Ms. Rashmi Chopra, Standing
Counsel

versus

RAMESH KAKKAR

Through: Respondent
None

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Date of Decision: 7th October, 2010**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE MANMOHAN**

1. Whether the 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?

MANMOHAN, J

1. The present appeal has been filed under Section 260A of Income Tax Act, 1961 (for brevity, "Act") challenging the order dated 8th September, 2009 passed by the Income Tax Appellate Tribunal (in short "Tribunal") in ITA No. 1178/Del/2009, for the Assessment Year 2005-2006.
2. In the present case, the Assessing Officer has made an addition in the respondent-assessee's income solely on the basis of DVO's report. However, in *Commissioner of Income Tax Vs. Shri Bajrang Lal*

Bansal, ITA No. 182/2010 decided on *20th August, 2010*, this Court has held that it is settled law that the primary burden of proof to prove under-statement or concealment of income is on the revenue and it is only when such burden is discharged that it would be permissible to rely upon the valuation given by the DVO. It has been further held that in any event, the opinion of the DVO, *per se*, is not an information and cannot be relied upon without the books of account being rejected.

3. Keeping in view the aforesaid mandate of law in *Shri Bajrang Lal Bansal* (supra), the present appeal, being bereft of merit, is dismissed.

MANMOHAN, J

CHIEF JUSTICE

OCTOBER 07, 2010

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