

IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 565/2009

**COMMISSIONER OF INCOME TAX Appellant
Through: Ms Prem Lata Bansal**

versus

**RAJESH SHARMA
Respondent
Through: Mr S.R. Wadhwa**

CORAM:

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE SIDDHARTH MRIDUL**

**ORDER
04.02.2010**

The brief facts of the present case are that a search was conducted in the residential premises of the respondent / assessee. On the same day, a search was also conducted at the business premises of the Atree Structures Pvt. Ltd in which the respondent / assessee was a director. In the course of search proceedings pertaining to the said company, two diaries belonging to the respondent / assessee were found. It is an admitted position that there is no satisfaction recorded under Section 158 BD of the Income-tax Act, 1961 insofar as these two diaries are concerned by the Assessing Officer of Atree Structures Pvt. Ltd. However, the assessment was completed pursuant to the 158 BC proceedings in respect of the respondent / assessee by taking into account the said two diaries found in the course of search in respect of the said company as indicated above. The only additions that were made were on the basis of the said two diaries.

Admit.

In the context of the aforesaid facts and circumstances, the following substantial question of law arises for our consideration:-

?Whether the Income-tax Appellate Tribunal had not erred in law in holding that since the procedure of Section 158 BD of the Income-tax Act, 1961 had not been followed in respect of the diaries seized during the course of search conducted in respect of the company, the same could not form part of the block assessment insofar as the respondent / assessee was concerned ?

The paper books be filed by the appellant within three months as per rules. List in due course.

BADAR DURREZ AHMED, J

SIDDHARTH MRIDUL, J

FEBRUARY 04, 2010

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