

M/S Kamdhenu Sweets Vs ACIT Central Circle, Allahabad (WRIT PETITION NO. 1688(Tax) of 2002)

In this case a search was conducted at the residence of the partners and survey was conducted at the premises of assessee. Later on a notice under section 158BD, nearly after two years from the date of search, was issued in the case of the assessee. The assessee challenge the validity of the notice by contending that since search was conducted at the premises of the assessee the notice is bad. Hon'ble High Court has held that mere mentioning of search and seizure on the panchnama prepared in survey dose not converts survey into search and as such the issuance of notice under section 158BD is upheld

Editorial Note :- No argument to the effect that that issuance of notice after the lapse of two years is bad in law in view of the judgment of Hon'ble Gujrat High Court in the case of Khandu Bhai Vasant ji reported in **236 ITR 73**. Hon'ble ITAT of Delhi Bench in the case of **Radhey shyam bansal** has held that the notice under section 158BD is required to be issued with in two months from the end of the month in which search was conducted. This decision is confirmed by the special bench of the ITAT in the case of **Bishan Chand Mukesh Kumar** reported in 310 ITR 99(AT)