

IN THE HIGH COURT OF DELHI AT NEW DELHI

11.08.2009

Present: Ms. Prem Lata Bansal, Advocate with Mr. Paras Chaudhry

Advocate for the appellant.

I.T.A.No. 525/2009 SURESH KUMAR MITTAL

Issue raised in this case is covered by the judgment of this Court in C.I.T. Vs. Capital Flour Mills Pvt. Ltd. ITA No.112 of 2006 decided on 25th July, 2007. We additionally find, in the present case, that the I.T.A.T. has relied upon the judgment of the Supreme Court in C.I.T. Vs. K. Adinnarayanamurthy 65 ITR 607 in the following manner: Nonetheless, the fact stays that the notice for reopening the assessment was issued to M/s. Manoj Trading Company, a firm, which was not in existence.

Such a notice is bad in law in terms of the decision of Hon?ble Supreme Court in the case of K. Adinayanamurthy (supra). It is not a case of an error, omission or defeat etc. which could be rectified u/s. 292B as the matter related to assuming the jurisdiction for making an assessment. Therefore, we are of the view that the learned counsel was right in arguing that the notice is bad in law. The consequence is that the assessment made on such a notice is also bad in law?.

No substantial question of law arises.

Dismissed.

A.K.SIKRI, J

VALMIKI J.MEHTA, J

August 11, 2009