

IN THE HIGH COURT OF DELHI AT NEW DELHI

19.03.2009

Present: Ms Prem Lata Bansal with Mr Mohan Prasad Gupta for the  
appellant.

Dr Rakesh Gupta with Mr Ashwani Taneja and Ms Poonam Ahuja for the  
respondent.

ITA No 111/2009 CROSS INVESTMENT ( P ) LTD.

The question raised before us is that by virtue of Section 292BB, since the assessee was participating in the proceedings, the non-compliance to Section 143(2)(i) would not be debatable. The proviso to that provision clarifies that the notice must be served on the assessee before the expiry of twelve months from the end of the month in which the return is furnished. Admittedly, in this case the notice was issued/dispatched at 11.40 pm on 30.10.2002. As per the

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afore-mentioned proviso, service should have been effected on or before 31.10.2002. The notice has in fact been served on 01.11.2002. These facts are not in dispute. This Court has repeatedly noted the use of the words 'issued' and 'served' in various provisions of the Income Tax Act. In CIT vs Vardhman Estate P Ltd: (2006) 287 ITR 368 (Del) the same clarification was made. In these circumstances, Section 292 BB has no role to play. We do not, therefore, go into the aspect whether it has retrospective effect allegedly being in the nature of procedure.

No substantial question of law arises for consideration of this Court.

The appeal is dismissed.

VIKRAMAJIT SEN, J

RAJIV SHAKDHER, J

March 19, 2009/mb