

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**INCOME TAX APPEAL (L) NO.2005 OF 2009**

The Commissioner of Income Tax – 16, Mumbai ..Appellant.

Versus

M/s.Raja Shreepal CHS Limited ..Respondent.

Mr.A.S. Shivsharan for the appellant.

Mr.B.V. Jhaveri for the respondent.

**CORAM : Dr.D.Y. Chandrachud &  
J.P. Devadhar, JJ.**

**DATE : 17 June, 2010.**

**P.C. :**

1. The Tribunal has held that recourse to the power in revision under Section 263 of the Income Tax Act, 1961 was not warranted as the Assessing Officer had adopted a possible view. The view which was adopted by the Assessing Officer, when he passed the order of assessment was a possible view in view of the judgment of the Delhi High Court in the case of *Deputy Commissioner of Income Tax V/s. All India Oriental Bank of Commerce Welfare Society*<sup>1</sup>. In *Commissioner of Income Tax V/s. Max India Limited*<sup>2</sup>, the Supreme Court while interpreting the provisions of

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1 (2003)130 Taxman 575 (Del.)

2 (2007) 295 ITR 282 (SC)

Section 263 held that when an Income-tax Officer has adopted one of the courses permissible in law or where two views are possible and the Income-tax Officer has taken one view, with which the Commissioner does not agree, it cannot be treated as an erroneous order prejudicial to the interest of the Revenue unless the view taken by the Income-tax Officer is unsustainable in law. In view of the law laid down by the Supreme Court, the Tribunal was not in error in coming to the conclusion that recourse to the provisions of Section 263 was not warranted.

2. The appeal is accordingly dismissed. There shall be no order as to costs.

(J.P. Devadhar, J.)

(Dr.D.Y. Chandrachud, J.)