IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 730 OF 2007
ALONGWITH
INCOME TAX APPEAL NO. 731 OF 2007
ALONGWITH
INCOME TAX APPEAL NO. 732 OF 2007

Sanjiv Goel ....Appellant
V/s.
Deputy Commissioner of Income-tax ....Respondent

* * * *

Mr. Satish Mody I/by. Aasifa Khan, Advocate for the appellant.

CORAM :- M.S. SANKLECHA, &
SANDEEP K. SHINDE, JJ.

DATE : 30TH JULY, 2018.

P.C. :-

1. These three Appeals under Section 260A of the Income-tax Act, 1961 (the Act) challenges the common impugned order dated 23rd November, 2016 relating to Assessment Years 1992-93, 1993-94 and 1994-95. All the three Appeals were admitted on 4th September, 2007/30th October, 2007 on the following substantial question of law :

> *"Whether an assessment made under Section 143(3) read with Section 147 of the Income Tax Act is void ab-initio without issuing the mandatory notice u/s. 143(2) of the Act ?"*

2. None appears for the respondent inspite of the fact that at the time of admission, the respondents had waived service. Mr. Mody, Learned Counsel for the appellant, points out that the issue raised herein stands concluded in favour of the appellant-assessee by the decision of the Supreme Court in **ACIT v. Hotel Blue Moon, 321 ITR 362 (SC)**.

3. The Apex Court in *Hotel Blue Moon* (supra) holds that the issuance of notice under Section 143(2) of the Act is mandatory before making assessment under Section 143(2) of the Act. In this case, admittedly no notice under Section 143(2) has been issued. Therefore, the substantial question of law for all

the three assessment years stands concluded in favour of the appellant-assesseee and against the respondent-Revenue by the decision of the Supreme Court in the case of *Hotel Blue Moon* (supra). Accordingly, the substantial question of law is answered in the affirmative i.e. in favour of the appellant-assessee and against the respondent-Revenue.

4. Appeals allowed in above terms.

(SANDEEP K. SHINDE, J) **(M.S. SANKLECHA, J)**

Neeta Shailesh Sawant

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