

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

**Income Tax Application No.363 of 2001
(Old No.31 of 2000)**

The Commissioner of Income Tax Meerut

... Applicant

Versus

ONGC as representative of M/s Merzliakov I,
Tel Bhawan, Dehradun

...Respondent

Dated: November 30, 2005

Mr. S. K. Post, Advocate for the appellants.

Mr. J.P. Joshi, Advocate for the respondent.

**Coram: Hon. P.C. Verma, J.
Hon. J.C.S. Rawat, J.**

This application is against the order dated 03.08.1999 passed by the Income Tax Appellate Tribunal, (Delhi Bench 'D' New Delhi) in ITA No.3088(Del) of 1992. The dispute relates to the Assessment Year 1990-91.

2. The substantial question of law raised in the appeal is as follows:

(i) "Whether on the facts in the circumstances of the case, the learned Income Tax Appellate Tribunal was justified in directing to apply single stage grossing up of the Tax perquisites paid by ONGC on behalf of the assessee instead of Multi-stage grossing up, applied by the Assessing Officer under Section 195-A of the Income Tax Act, 1961."

3. The aforementioned question was considered by a Division Bench of this Court in case of Commissioner of Income Tax, Meerut and another Vs. ONGC as agent of Cooper Engineering Services International Incorporated and connected

cases, which was reported in (2003) 264 ITR 340. In the above judgment, this Court held that the Tribunal was right in holding that Multiple Stage Grossing Up of income was not applicable to notional income under section 44BB read with section 195A of the Income Tax Act, 1961. Hence, this question also stands decided accordingly.

4. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this application.

(J.C.S. Rawat, J.) (P.C. Verma, J.)

Rajeev Dang