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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 302/2015

+ ITA 303/2015

+ ITA 304/2015, C.M. No. 8192/2015

COMMISSIONER OF INCOME TAX-20 Appellant

Through: Appearance not given.

versus

SUNIT SHAH & SONS Respondent

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **06.05.2015**

1. The present appeal questions the common order of the Income Tax Appellate Tribunal (hereinafter referred to as "the ITAT") dated 19.09.2014 arising from assessments for Assessment Years (AY) 2007-08 and 2008-09. It is alleged that deletion sanctioned by the ITAT was unwarranted in the circumstances of the case.

2. ITA Nos. 302/2015 and 303/2015 concern the same order of AY 2007-08. The addition made – in the course of assessment proceedings a survey was made under Section 133A and was led to certain additions. The Commissioner of Income Tax (Appeals) [hereinafter referred to as the "CIT(A)"] confirms these additions to the tune of ₹7,22,177/-. The ITAT was of the opinion that the explanation of the assessee in the given circumstances was unwarranted. The explanation quoted by the assessee was that the amounts denoted gifts by relatives.

3. The ITA No.304/2015 for the subsequent year 2008-09 is also concerned with the similar addition of ₹8,75,362/-. Here too, the ITAT accepted the assessee's explanation in the given facts. Considering that

these are factual findings, the court finds no merit in the contentions raised.

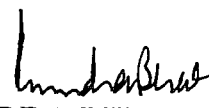
4. Another factual finding with regard to the correctness of the disallowance of ₹1,75,000/- has been recorded. This too is a finding of the fact. No question of law arises.

5. For AY 2008-09, ₹28,55,281/- was added due to variation of closing stocks for AY 2008-09. The CIT(A) held that the price assumed by the department in adding back the amount was exorbitant and could not be accepted. The CIT(A) held that the assessee had recorded sales in the books. In these circumstances, the CIT(A) had reduced the valuation originally at ₹67,43,125/- to ₹38,87,485/-. ITAT merely confirmed the said finding. It is evident that the CIT(A)'s finding is based on material on record. No question of law arises.

6. The last issue is with respect to unrecorded sales on account of which the addition of ₹32,77,867/- was made. The AO applied GP rate of the 20% of the total unrecorded turnover of ₹1,63,89,335/-. The ITAT noticed that the AO had brought to tax the entire unrecorded sales instead of bringing into tax the GP rate found by the AO. This reasoning in our opinion does not call for interference.

7. For the above reasons, no substantial question of law arises.

8. The appeals are unwarranted and, therefore, dismissed.


S. RAVINDRA BHAT, J

R.K. GAUBA, J

MAY 06, 2015

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