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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 505/2015

PR.COMMISSIONER OF INCOME TAX

..... Appellant

Through: Mr. N.P. Sahni, Senior Standing counsel
with Mr. Nitin Gulati, Advocate.

versus

CORONATION INFRASTRUCTURE LTD.

..... Respondent

WITH

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ITA 506/2015

PR.COMMISSIONER OF INCOME TAX

..... Appellant

Through: Mr. N.P. Sahni, Senior Standing counsel
with Mr. Nitin Gulati, Advocate.

versus

CORONATION INFRASTRUCTURE LTD.

..... Respondent

WITH

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ITA 507/2015

PR.COMMISSIONER OF INCOME TAX

..... Appellant

Through: Mr. N.P. Sahni, Senior Standing counsel
with Mr. Nitin Gulati, Advocate.

versus

CORONATION INFRASTRUCTURE LTD.

..... Respondent

ITA Nos. 505, 506, 507 & 514 of 2015

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AND

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ITA 514/2015

PR.COMMISSIONER OF INCOME TAX

..... Appellant

Through: Mr. N.P. Sahni, Senior Standing counsel
with Mr. Nitin Gulati, Advocate.

versus

CORONATION INFRASTRUCTURE LTD.

..... Respondent

CORAM:

HON'BLE DR. JUSTICE S. MURALIDHAR

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.07.2015

CM Nos. 13222/2015, 13223/2015 & 13243/2015 (for exemption)

1. Exemptions allowed subject to all just exceptions.

2. The applications are disposed of.

ITA Nos. 505/2015, 506/2015, 507/2015 & 514/2015

3. These are appeals by the Revenue under Section 260A (1) against orders of the Income Tax Appellate Tribunal ('ITAT') for various Assessment Years ('AYs') on issue of penalty under Section 271C of the Income Tax Act, 1961 ('Act').

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4. A survey operation undertaken on 12th November 2008 under Section 133A of the Act revealed that the Respondent Assessee made payments of interest on loans borrowed from four Non-Banking Financial Companies ('NBFCs') without deducting tax at source. It was also found that the Respondent had not collected tax collected at source under Section 206C of the Act on the sale of scrap. In that context that the penalty was levied under Section 271-C of the Act.

5. The Assessee succeeded both before the Commissioner of Income Tax (Appeals) [CIT(A)] as well as the ITAT who concurrently held that the non-deduction of TDS was for *bonafide* reasons. Among the factors that weighed with both the CIT (A) and the ITAT were that the NBFCs in question had in their returns accounted for the interest amount earned and had paid the taxes thereon. Further, the repayment schedule was fixed and post-dated cheques were collected upfront which included the principal amount together with the interest.

6. It was urged by Mr. Sahni, learned Senior Standing counsel for the Revenue that it was only on account of the survey operation undertaken that the above lapse was detected and it is only thereafter that the Assessee made

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good the lapse.

7. The Court is of the view that where two authorities have, in the context of penalty proceedings under Section 271 C of the Act, been convinced with the reasons offered by the Assessee and have concluded that the failure to deduct TDS was for *bonafide* reasons, no substantial question of law arises for determination by the Court.

8. The appeals are dismissed.



S. MURALIDHAR, J



VIBHU BAKHRU, J

JULY 31, 2015/dn