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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 683/2015

PRO COMMISSIONER OF INCOME TAX Appellant
Through: Mr. Kamal Sawhney, Senior Standing
Counsel, Mr. Raghvendra Singh, Junior Standing
counsel with Mr. Shikhar Dhawan, Advocate

versus

VIJAY CONDUCTORS INDIA PVT. LTD. Respondent

With

✓ **ITA 684/2015**

PRO COMMISSIONER OF INCOME TAX Appellant
Through: Mr. Kamal Sawhney, Senior Standing
Counsel, Mr. Raghvendra Singh, Junior Standing
counsel with Mr. Shikhar Dhawan, Advocate

versus

NAMRATA MARKETING PVT. LTD. Respondent

With

ITA 685/2015

PRO COMMISSIONER OF INCOME TAX Appellant
Through: Mr. Kamal Sawhney, Senior Standing
Counsel, Mr. Raghvendra Singh, Junior Standing
counsel with Mr. Shikhar Dhawan, Advocate

versus

VISHRUT MARKETING PVT. LTD. Respondent

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And

ITA 686/2015

PRO COMMISSIONER OF INCOME TAX Appellant

Through: Mr. Kamal Sawhney, Senior Standing
Counsel, Mr. Raghvendra Singh, Junior Standing
counsel with Mr. Shikhar Dhawan, Advocate

versus

BERIWAL INVESTMENT & CHIT FUND
PVT. LTD.

..... Respondent

CORAM:

HON'BLE DR. JUSTICE S. MURALIDHAR

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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29.09.2015

CM APP No. 18260 of 2015(exemption) in ITA No.683 of 2015

CM APP No. 18268 of 2015(exemption) in ITA No.684 of 2015

CM APP No. 18271 of 2015(exemption) in ITA No.685 of 2015

CM APP No. 18289 of 2015(exemption) in ITA No.686 of 2015

1. Allowed, subject to all just exceptions.

2. The applications stand disposed of.

ITA No.683 of 2015

ITA No.684 of 2015

ITA No.685 of 2015

ITA No.686 of 2015

3. These appeals by the Revenue are directed against a common order dated
28th January 2015 passed by the Income Tax Appellate Tribunal ('ITAT')

for the Assessment Year ('AY') 2008-09.

4. The common issue in all the appeals issues concerns the additions made under Section 68 of the Income Tax Act ('Act') which was directed to be deleted by the ITAT.

5. A survey was conducted by the investigation wing of the Department under Section 133A of the Act in the office premises of one Mr. S.K. Gupta who was in the business of providing accommodation entries to various persons. During the survey, several documents, papers, laptops containing the accounts of several parties were impounded. An application was filed by Mr. Gupta before the Settlement Commission in which he admitted to carrying on the business of providing accommodation entries on which commission/brokerage was received by him.

6. The ITAT referred to the order dated 28th December 2010 of the Settlement Commission which records *inter alia* that Mr. Gupta was an entry provider and that in his case only the amount of premium/commission received by him after reducing expenses incurred would be his additional income. The order of the Settlement Commission also gave a list of the concerns controlled by Mr. Gupta which included the present Assesseees.

These companies/entities were used by Mr. Gupta as conduit for issue of cheques to the beneficiaries.

7. The Assessing Officer (AO) gave effect to the order of the Settlement Commission and determined the income of Mr. S.K. Gupta without making any addition for unexplained cash credit. During the course of assessment Proceedings of the intermediary companies, including the Respondent Assessee, the AO sought directions from the Additional Commissioner of Income Tax under Section 144-A. The Additional CIT passed an order in which after discussing the facts he *inter alia* directed that it would be in the best interest of the Revenue to tax these transactions in the hands of beneficiaries and Mr. S.K. Gupta “without making any additions on this account in the hands of conduit entities”. The said orders of the Settlement Commission or of the Additional CIT were binding on the AO.

8. It is not in dispute that the Respondent Assessee are the conduit entities and not the beneficiaries. Consequently, the order of the ITAT deleting the addition under Section 68 of the Act in their hands does not suffer from any legal infirmity.

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9. No substantial question of law arises for consideration.

10. The appeals are dismissed.



S.MURALIDHAR, J



VIBHU BAKHRU, J

SEPTEMBER 29, 2015
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