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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 162/2016**

PRINCIPAL COMMISSIONER OF
INCOME-TAX-08, ... Appellant

Through: Mr Dileep Shivpuri, Senior Standing Counsel with Mr Zoheb Hossain, Junior Standing Counsel.

versus

M/S SHRUTI FASTNERS LTD. ..... Respondent

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **01.03.2016**

CM No.6934/2016

1. For the reasons stated in the application, the same is allowed.

2. The application stands disposed of.

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3. The Revenue has filed the present appeal against an order dated 5th August, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.1944/Del/2013 for the Assessment Year ('AY') 2001-02.

4. As far as the ITAT is concerned, this was the second round of litigation. Earlier by an order dated 22nd September 2010, the ITAT had remanded the

matter to the Assessing Officer ('AO') for a fresh decision after providing an adequate opportunity to the Assessee.

5. Pursuant to a survey undertaken under Section 133A of the Act on 7th September 2006, a hard disk/CPU in the premises of the Assessee was impounded. The CPU showed that the Assessee had received accommodation entries and that there was a huge difference between the closing stock as shown in the books of accounts produced and in the account as shown in the document recovered from the CPU. Accordingly, a notice under Section 148 of the Act was issued.

6. A fresh assessment order was passed on 30th November, 2011 by the AO making an addition on account of undisclosed net profit and computing the total income at Rs. 3,26,86,543/-. The Assessee's appeal was dismissed by the Commissioner of Income Tax (Appeals) by an order dated 4th January 2013. The Assessee's further appeal was allowed by the ITAT by the impugned order and the addition was deleted.

7. *Inter alia,* it is sought to be urged by the Revenue that the figures obtained from the hard disk of the CPU must be given credence over the figures in the books of accounts produced before the AO and in particular the stock register maintained by the Assessee.

8. In the impugned order, the ITAT has given cogent reasons as to why the case of the Revenue cannot be accepted. *Inter alia,* it is pointed out that no evidence was found which could substantiate the Revenue's contention that

there were either purchases or sales outside the books of accounts. There was no evidence that the Assessee maintained parallel books of accounts. The contention of the Revenue that the difference in the figures of closing stock as on 31st March 2011 and the opening stock as on 1st April 2011 were due to unaccounted sales was rejected as being absurd. The ITAT observed that "just one unrealistic and absurd figure of net profit is taken out from the print out of the rough document from the CPU/hard disk and adopted for assessment of total income. Such an approach cannot be approved".

9. Having heard the learned counsel for the Revenue and having perused the impugned order of the ITAT, the Court is of the view that the view taken by the ITAT is a plausible one and cannot be said to suffer from any perversity warranting interference. No substantial question of law arises.

10. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 01, 2016
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