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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 2157/2016**

INDO TECHNO LINKS (ITL) PVT LTD ..... Petitioner
Through: Mr K. R. Manjani, Advocate.

versus

INCOME TAX OFFICER WARD 11(4) ..... Respondent
Through: Mr P. Roy Chaudhuri, Senior Standing Counsel.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **14.03.2016**

CM APPL 9225/2016 (for exemption)

1. Exemption allowed subject to all just exceptions.

2. The application is disposed of.

W.P.(C) 2157/2016

3. There are two orders which are challenged in this writ petition. One is an order dated 24th January, 2013 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.2184/Del/2012 for the Assessment Year ('AY') 2003-04 whereby the ITAT dismissed the Petitioner's appeal which in turn was directed against an order dated 5th March, 2012 of the Commissioner of Income Tax (Appeals) partly allowing the Petitioner's appeal.

4. The second order impugned in the present writ petition is an order dated 12th October, 2015 passed by the ITAT dismissing the Petitioner's Miscellaneous Application No.195/Del/2013 under Section 254 of the Income Tax Act, 1961 ('Act') seeking rectification of the order dated 24th January, 2013.

5. The Court would normally not entertain the present writ petition but for the fact that in an earlier appeal filed by the Petitioner being ITA No.258/2014 against the order dated 24th January, 2013 of the ITAT was permitted to be withdrawn by the Petitioner with liberty granted to it to file a comprehensive writ petition, after disposal by the ITAT of the application under Section 254.

6. It is for the above reasons, the Court has examined the present writ petition.

7. The grievance of the Petitioner is that the CIT(A) as well as the ITAT erred in sustaining the additions made by the AO of a sum of Rs.9,25,000/- on account of unexplained credit under Section 68 of the Act. With the help of Mr K. R. Manjani, learned counsel for the Petitioner Assessee, the Court has examined the orders of the AO, CIT as well as the ITAT. The concurrent finding of fact is that although the Assessee may have been able to establish the identity of the persons who subscribed to the share capital, the Assessee failed to prove the genuineness and credit worthiness of the subscribers. It is seen that prior to the issuance of cheques by share subscribers, cash was deposited to the bank accounts and, thereafter, those bank accounts were

never operated.

8. In light of the above concurrent findings of fact, the Court is not inclined to entertain the present writ petition seeking to challenge the aforementioned orders of the ITAT. The writ petition is, accordingly, dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 14, 2016
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