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

\+ **ITA 387/2016**

PR. COMMISSIONER OF INCOME TAX-1 ..... Appellant
Through: Mr. P. Roychaudhuri, Sr. Standing Counsel.

versus

A.I.DEVELOPERS PVT.LTD. ..... Respondent
Through:

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% **29.07.2016**

<u>CM No. 25172/2016 (Exemption)</u>

1. Allowed subject to all just exceptions.

<u>ITA No. 387/2016</u>

2. This is an appeal by the Revenue against the impugned order dated 27th January, 2016 passed by the Income Tax Appellate Tribunal (‘Tribunal’), in ITA No. 2102/Del/2011 for the Assessment Year (‘AY’) 2007-08. The Revenue seeks to urge the following four questions before the Court:

> “(i) Whether in the facts and circumstances of the case, the ITAT was right in law in upholding the order of CIT(A) who deleted the addition of Rs. 92,95,000/- under section 68 of the IT Act made by the AO on account of unexplained share application money.
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> (ii) Whether in the facts and circumstances of the case, the ITAT was right in law in upholding the order of CIT(A) who decided the addition

of Rs. 52,48,820/- under section 68 of the Act made by the AO on account of unsecured loans.

(iii) Whether in the facts and circumstances of the case, the ITAT was right in law in upholding the order of CIT(A) who deleted the addition of Rs. 74,84,106/- on account of unexplained investment u/s 69 made by the AO.

(iv) Whether in the facts and circumstances of the case, the ITAT was right in law in upholding the order of the CIT(A) who deleted the disallowance of Rs. 12,23,707/- made by the AO on account of purchase of plot."

3. It is noticed at the outset that during the proceedings before the Commissioner of Income Tax (Appeals) ['CIT(A)'], the Assessee produced documents which were examined in detail. It is only after discussing the entire material in the light of the remand report of the Assessing Officer ('AO') the CIT(A) has come to a definite conclusion that the Assessee has been able to sufficiently explain, to the satisfaction of the CIT(A), of the identity, genuineness and creditworthiness of the creditors. This is in respect of both the additions sought to be made by the AO under Section 68 of the Act, on account of alleged unexplained share application money as well as unsecured loans. The CIT(A) has also deleted the addition of Rs. 74,84,106/- on the question of unexplained investment and returned a categorical finding that these investments have been sufficiently explained by the Assessee. The reasons for deletion of the addition in relation to the purchase of the plot have also been discussed in sufficient detail by the CIT (A).

4. The above factual findings have been concurred with by the ITAT in a very detailed order again discussing the material available on record. The

Court has not been persuaded by the learned counsel for the Revenue to view the above concurrent findings to be suffering from any perversity requiring any substantial question of law to be framed, as urged by the Revenue.

5. The appeal is, accordingly, dismissed.

S. MURALIDHAR, J

NAJMI WAZIRI, J

JULY 29, 2016
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