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

\+ **ITA 497/2016, C.M. APPL.27311/2016**

PRINCIPAL COMMISSIONER OF INCOME-TAX (CENTRAL)-I ..... Appellant

versus

SURESH NANDA ..... Respondent

\+ **ITA 499/2016, C.M.APPL.27313/2016**

PRINCIPAL COMMISSIONER OF INCOME-TAX (CENTRAL)-I ..... Appellant

versus

SURESH NANDA ..... Respondent

\+ **ITA 500/2016**

PRINCIPAL COMMISSIONER OF INCOME-TAX (CENTRAL)-I ..... Appellant

versus

SURESH NANDA ..... Respondent

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **30.08.2016**

The four common questions urged in all these appeals is premised upon the respondent's status as a "non-resident". The Tribunal noticed the judgment of this Court in *CIT v. Shri Suresh Nanda,* 375 ITR 172 (2015) [ITA 715/2014 (decided on 27.05.2015)], which ruled that the assessee is in fact a non-resident. The revenue's counsel did not dispute this position. In these circumstances, the four questions urged do not arise.

Of the two surviving questions which arise for consideration for AY 2008-09 and 2009-10, one pertains to the interest from security deposit given to the assessee by the company in which he is a 61% shareholder – M/s. Crown Corporation Pvt. Ltd. The Assessing Officer (AO) assessed the security deposit as a "deemed dividend" under Section 2(22)(e) of the Income Tax Act, 1961. The CIT(A) and the ITAT have, however, directed its cancellation.

We notice that the ITAT has relied upon the previous authorities of this Court in *CIT v. Creative Dyeing and Printing Pvt. Ltd.* 2009 (318) ITR 416; *CIT v. Ambassador Travels Pvt. Ltd.* 2009 (318) ITR 376 and *Navnit Lal. C. Javeri and K.K. Sen* 1965 (56) ITR 198 (SC). The Court had ruled that merely because an amount of money is received by the assessee from the company in which he is a shareholder – the inference that it should be treated as "deemed dividend" should not arise. This Court does not see any reason to differ from that conclusion or precedent. In the circumstances, these questions of law too do not arise. ITA 497/2016, 499/2016 and 500/2016 are accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 30, 2016
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