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

\+ ITA 585/2016

PRINCIPAL COMMISSIONER OF INCOME TAX - 4 .... Appellant

Through: Mr.Zoheb Hossain, Sr.Standing Counsel and Mr.Deepak Anand, Jr.Standing Counsel

versus

M/S IIBS INFONET PVT. LTD. ..... Respondent

Through: Mr.Rohit Kumar Gupta and Ms.Monika Ghai, Advocates

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

O R D E R

% 14.09.2016

This matter has been taken up today as 13.09.2016 was declared holiday on account of Id-ul-Zuha.

The question of law urged by the revenue in this appeal under Section 260A is whether the ITAT fell into error in directing the division of the appellant's income included in the assessment?

The assessee was subjected to survey under Section 133A during the course of which his statement was recorded. The tribunal relied upon the decision reported as ***CIT vs. S Khakder Khan*** reported as **(2008) 300 ITR 157 (Madras)** and ***CIT, Ranchi vs. Ravindra Kumar Jain*** reported in **(2009) 33 SOT 251 (Del)**.

The revenue urges that the decision in ***CIT vs. MAK Data Pvt. Ltd.(2013)*** **352 ITR 1 (Del)** was overlooked. It is stated that the Court in that judgment ruled that such statements can be the sole basis for completing assessment and adding to the income of the assessee.

This court has considered the submissions. During the course of hearing, the revenue had relied on ***MAK Data vs. CIT*** **358 ITR 593 (SC)**. In that case the survey was of the assessee's sister concern. During its course several documents which had been undisclosed by that concern were found and recovered. During the course of assessment proceedings, when the assessee was questioned about those documents it offered to surrender substantial income on the basis of which penalty proceedings were drawn. The entire focus of discussion was on whether the penalty was correctly levied and the court held that it was. We are of the opinion that the rulings of this court relied upon by the tribunal in ***Ravindra Kumar Jain's*** *case* (*supra*) was appropriate. There is nothing to show any material supportive of the statement made in the course of survey proceedings was found or collected.

Consequently, no question of law arises for consideration of this court. The appeal is dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 14, 2016
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