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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **ITA 7/2016**

THE PR. COMMISSIONER OF INCOME TAX CENTRAL-03 ..... Appellant
Through: Mr Rahul Chaudhary, Senior Standing Counsel.

versus

SHYAM BASIC INFRASTRUCTURE PVT. LTD. ..... Respondent
Through

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>
% 12.01.2016

1. This is a penalty appeal by the Revenue against the order dated 5th June, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.4366/Del/2013 for the Assessment Year ('AY') 2009-10.

2. The Assessee had earned dividend income and had made a disallowance under Section 14A of the Act. However, the Assessing Officer ('AO') recomputed the disallowance in terms of Rule 8D of the Income Tax Act Rules, 1962. The question was whether the Assessee could be held to have failed to disclose the material particulars for the purposes of attracting the penalty under Section 271(1)(c) of the Act.

3. The ITAT has in the impugned order, while concurring with the

Commissioner of Income Tax (Appeals), observed that the mere non-acceptance of the Appellant's submissions without any positive evidence from the AO that the Assessee has concealed or furnished inaccurate particulars, did not *ipso facto* warrant the levy of a penalty under Section 271(1)(c).

4. On the facts of the present case, no substantial question of law arises. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JANUARY 12, 2016
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