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

\+ **ITA 106/2017 & CM No.4644/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI-17 ..... Appellant

Through: Mr.Rahul Kaushik, Advocate.

Versus

VARDAN FASHIONS ..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 22.02.2017

CM No.4644/2017 (for exemption)

Allowed, subject to all just exceptions.

The application stands disposed off.

ITA 106/2017

1. Four questions are sought to be urged by the Revenue in its appeal – in this case – against the order of the Income Tax Appellate Tribunal (ITAT) under Section 260A of the Income Tax Act, 1961 (hereinafter to be referred as ‘the Act’).

2. The first question pertains to the alleged bogus purchases to the tune of ₹6,90,10,498/-; the second relates to the addition made by the Assessing Officer (AO) to the tune of ₹6,15,46,908/- under Section 68 of the Act; the

third relates to a negative balance disallowed by the AO – to the extent of ₹17,99,616/-; and the last pertains to a disallowance under Section 40A(3) of the Act.

3. As far as the first issue is concerned, the Court notices that the assessee is a garment exporter and had claimed to have purchased raw materials i.e. fabric from several suppliers. The AO doubted these purchases on several grounds – prominently because of the Special Auditor's report and also premised his findings upon unavailability of the suppliers at the given addresses. After considering the remand report, the Commissioner of Income Tax (Appeals) [CIT(A)] allowed the assessee's appeal noticing that finished product was exported and that the quantity of finished product matched with the figures that the assessee claimed were purchased. It is furthermore noticed that the purchasers were paid through banking channels. The ITAT confirmed the orders of the CIT(A). This Court is the opinion that having regard to the concurrent findings, which are based upon sound reasoning, no interference is called for on this aspect.

4. As far as the second issue i.e. addition made under Section 68 is concerned, the Court is of the opinion that the CIT(A) closely examined the additional materials and after analysing the remand report was satisfied that the amounts of ₹6.15 crores were denoted genuine transactions of identified parties. Here too the findings are entirely correct. As far as the last two items are concerned, the Court is of the opinion that the question of negative cash balance of ₹17,99,616/-, as explained by the CIT (A) and the ITAT, did not arise. Likewise, disallowance under Section 40A(3) of the Act was premised upon an erroneous view of the facts.

5. In these circumstances, no substantial question of law arises. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

FEBRUARY 22, 2017

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