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

+ **ITA 163/2017**

PR. COMMISSIONER OF INCOME TAX- 4 Appellant
Through: Mr. Zoheb Hossain, Advocate.

Versus

HOLTECH CONSULTING PVT. LTD. Respondent
Through: Ms. Monika Ghai, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **20.02.2017**

1. The Revenue in its appeal under Section 260A of the Income Tax Act, 1961 (hereinafter to be referred as 'the Act') urges four questions of law.
2. It is not in dispute that two questions i.e. the depreciation claim to the extent of 60% on purchase of computer peripherals and the disallowance under Section 14A of the Act, are covered by the previous judgments of this Court [*CIT Vs. BSES Yamuna Power Limited [2013] 358 ITR 47* and *Maxopp Investment Ltd. Vs.ACIT (2012) 347 ITR 272 (Delhi)*]. In these circumstances, no question of law arises on that account.
3. The third question urged is with respect to the addition of Rs.98,25,697/- made out over Rs.3,00,000,00/- paid to the two Directors as commission by the assessee. Applying provisions of Section 36(1) (ii) of the Act, Assessment Officer (for short 'AO') ruled that the payments were

excessive. This view was confirmed by the CIT (A). In appeal, the Income Tax Appellate Tribunal (ITAT) took note of the assessee's contentions that such payments conformed to the previous pattern and that having regard to the qualifications and the contributions of these two Directors, which is linked with their performance – the payments were not excessive. This Court is of the opinion that the observations of the ITAT are reasonable and that the performance based commission could not have been examined in an isolated manner without comparison with the payments made during the past years or to other employees, who received the same remuneration (though not to the same extent). No substantial question of law arises on this count.

4. The last question of law, similarly, is factual with respect to the debts written off. The AO and the CIT(A) were of the opinion that the assessee had not disclosed any details or particulars with respect to these debts or receivable in the past. The ITAT held as follows:-

“9.7 The Ld. AR had referred to page 89 of the paper book wherein the bad debts written off have been claimed in the profit and loss account for the year under consideration. On perusal of the notes to the audited accounts No. 20 (9) refers to the return of debts which includes the dead (sic) from previous years. During assessment proceedings the Ld. AO was well possessed with these details, to prove that the debts were written off. A similar issue arose before Hon'ble Supreme Court in the case of M/s. Vijay Bank versus CIT and Anr., reported in (2010) 190 taxman 257 wherein the Hon 'ble court has held that an assessee debits the amount of bad debts to the profit and loss account and credits the said account it would constitute a write-off of actual bad (sic). In the light of the ratio laid down by Hon 'ble Supreme Court in the case of M/s Vijaya bank Vs.CIT (supra) the claim of bad debts stands allowed.”

5. This Court is of the opinion that the discussion here is also factual. Hence, no question of law arises.
6. The appeal is, accordingly, dismissed.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

FEBRUARY 20, 2017

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