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

\+ **ITA No. 190/2017**

PRINCIPAL COMMISSIONER
OF INCOME-TAX – 2 ..... Appellant

Through : Mr. Rahul Chaudhary, Senior Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel for Revenue.

versus

CHEIL INDIA PRIVATE LIMITED ..... Respondent

Through : Mr. Salil Kapoor Mr. Sumit Lalchandani, Advocates.

**CORAM:**
**JUSTICE S. MURALIDHAR**
**JUSTICE PRATHIBA M. SINGH**

**O R D E R**

**% 11.09.2017**

1. The Revenue is in appeal against an order dated 17th August 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 6184/Del/2014 for the Assessment Year ('AY') 2010-11.

2. Broadly, there are three questions urged by the Revenue for consideration by this Court. The first concerns the deletion, by the ITAT, of the addition made by the Assessing Officer ('AO') on account of *'fall in net profit to turnover ratio'*. The ITAT observed that the lower net profit rate of 24.80% has been accepted by the AO for the earlier AY, i.e. 2008-09. However, the Assessee's line of business was not consistent over the years. The ITAT was

of the view that, without rejecting the accounts of the Assessee, making an addition merely on the basis of fall of the net profit ratio was not warranted. In the considered view of the Court, the view of the ITAT does not suffer from any infirmity. It is a plausible view to take in the facts of the case. No substantial question of law arises.

3. The second and third questions pertain to the disallowance under Section 40 (a) (ia) of the Income Tax Act, 1961 (‘Act’). The question concerns reimbursement of expenses paid to the employees/vendors on behalf of the Assessee in the sum of Rs. 1,20,49,546/-. The ITAT held that the CIT (A) exceeded his powers in issuing a notice of enhancement and making the above disallowance. On this aspect, the Court finds that the CIT (A) issued notice for enhancement of the disallowance but, in that process, entered into the question whether the expense in question was eligible for deduction at all in the first place. As rightly pointed out by the ITAT, this was beyond the scope of inquiry before the CIT (A). There was also no factual basis for the CIT (A) to doubt the reimbursement of the employees’ expenses. In the circumstances, the impugned order of ITAT holding that the CIT (A) travelled beyond the scope of the appellate proceedings in disallowing the above expenses does not suffer from perversity. The Court is, therefore, not inclined to frame a question of law on this issue as well. The appeal is accordingly dismissed.

**S. MURALIDHAR, J.**

**PRATHIBA M. SINGH, J.**

**SEPTEMBER 11, 2017**/j