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

\+ **ITA 424/2017**

PR. COMMISSIONER OF INCOME TAX-3 ..... Appellant
Through: Mr. Rahul Chaudhary, Sr. Standing Counsel.

Versus

ANSHIKA INVESTMENT PVT. LTD. ..... Respondent
Through: None.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% 03.07.2017

CM No. 22434/2017 (exemption)

1. Allowed, subject to all just exceptions.

CM No. 22435/2017 (delay in re-filing)

2. For the reasons stated therein, this application is allowed. The delay in re-filing the appeal is condoned.

CM No. 22433/2017 (delay in filing)

3. For the reasons stated therein, this application is allowed. The delay in filing the appeal is condoned.

ITA No. 424/2017

4. This is an appeal under section 260A of the Income Tax Act, 1961 (‘Act’) filed by the Revenue against an order dated 5th September, 2016 passed by

the Income Tax Appellate Tribunal ('ITAT') in ITA No. 3340/Del./2013 for the Assessment Year ('AY') 2009-10.

5. The issue urged by the Revenue in this appeal concerns the deletion of the addition made by the Assessing Officer ('AO') on account of alleged unexplained credit under section 68 of the Act. The deletion was ordered by the Commissioner of Income Tax (Appeals) ['CIT(A)'] by the order dated 7th March 2013, which order was confirmed by the ITAT by the impugned order dismissing the Revenue's appeal on this aspect.

6. We have heard the submission of Mr. Rahul Chaudhary, learned Senior Standing Counsel for the Revenue. We have perused the orders passed by the AO, the CIT(A) and the ITAT.

7. The CIT(A), after examining the assessment record, concluded that sufficient documentary evidence had been adduced by the Assessee before the AO. However, the AO had failed to make any enquiry into the matter. Therefore, the CIT(A) deleted the addition.

8. The ITAT dismissed the Revenue's appeal by relying on an earlier order of the ITAT in the Assessee's own case for AY 2006-07. Further, the ITAT discussed the merits of the case and after analysing the record concluded that "the assessee has duly discharged the onus of proving the credit of share capital in its account and learned CIT(A) was fully justified in accepting the same and in deleting the addition."

9. Having heard learned counsel for the Revenue and having perused the record, the Court is satisfied that the conclusion reached by the CIT(A) that the addition under Section 68 of the Act was not justified appears to be unexceptionable.

10. No substantial question of law arises from the impugned order of the ITAT. The appeal is dismissed.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 03, 2017
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