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

Date of Decision: 07.12.2017

\+ ITA 384/2017

R.L.TRADERS ..... Appellant

Through: Mr. K.R. Manjani with Mr. V.K. Manjani, Advs.

versus

INCOME TAX OFFICER WARD 47(1) ..... Respondent

Through: Mr. Ashok K. Manchanda, Sr. Standing Counsel with Mr. Anand Chaudhuri, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

S. RAVINDRA BHAT, J. (ORAL)

1. The assessee's appeal under Section 260A of the Income Tax Act, 1961 (hereafter referred to as 'the Act') characterizes the order of the Income Tax Appellate Tribunal (ITAT), which upheld the order of the Appellate Commissioner, as perverse. The assessee – for A.Y. 2007-08, faced addition of ₹1,34,584/-, under Section 68 of the Act. This was based upon entries shown as cash credits. Apparently, the AO – during the course of proceedings had summoned and recorded the statement of the creditor who admitted accommodating the assessee, in exchange of cash and after conceding that the transaction was not genuine. The amounts were brought to tax under Section 68 of the Act, after AO held that the genuineness – of the

transaction was exposed. The Appellate Commissioner and the ITAT affirmed the AO's findings in the regular quantum appeals. The AO imposed – in the subsequent proceedings under Section 271 of the Act ₹45,301/- as penalty. This too was carried in appeal to the Commissioner in the first instance and thereafter to the ITAT. All appeals failed.

2. Mr. K.R. Manjani, learned counsel submits that the facility of cross-examination was never afforded to the assessee and the creditor had been examined in its absence. It was also urged that in similar instances in the past, greater amounts were advanced by the same creditor, but the AO did not raise any objection.

3. This Court is of the opinion that given the finality to the quantum proceedings which fixed the liability upon the income of ₹1,34,584/- and the nature of the addition, the imposition of penalty in the circumstances could not be faulted. The citing of past instance or the lack of absence of cross-examination in no way, in the opinion of the Court, vitiates the initiation and culmination of penalty proceedings. No substantial question of law arises.

4. The appeal is therefore dismissed.

S. RAVINDRA BHAT, J

DECEMBER 07, 2017/kks SANJEEV SACHDEVA, J