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

\+ **ITA 237/2017**

PRINCIPAL COMMISSIONER OF INCOME-TAX- 7,..... Appellant

Through: Mr. Sanjay Kumar & Mr. Dileep Shivpuri, Advocates

versus

ROSE ADVERTISING PRIVATE LIMITED ..... Respondent

Through: Ms. Kavita Jha & Ms. Mehak Gupta, Advocates

WITH

\+ **ITA 238/2017**

PRINCIPAL COMMISSIONER OF INCOME-TAX- 7,..... Appellant

Through: Mr. Sanjay Kumar & Mr. Dileep Shivpuri, Advocates

versus

ROSE ADVERTISING PRIVATE LIMITED ..... Respondent

Through: Ms. Kavita Jha & Ms. Mehak Gupta, Advocates

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PRINCIPAL COMMISSIONER OF INCOME-TAX - 7..... Appellant

Through: Mr. Sanjay Kumar & Mr. Dileep Shivpuri, Advocates

versus

ROSE ADVERTISING PRIVATE LIMITED ..... Respondent

Through: Ms. Kavita Jha & Ms. Mehak Gupta, Advocates

CORAM: JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% **18.04.2017**

<u>CM Nos. 12136-12138/2017</u>

1. Allowed, subject to all just exceptions.

<u>ITA Nos. 237-240/2017</u>

2. The issues raised by the Revenue in the present appeals, which are directed against the common order dated 20th September, 2016 passed by the ITAT in ITA Nos. 2293/Del/2013 for AY 2008-2009, 2827/Del/2013 for AY 2008-2009, 2294/Del/2013 for AY 2009-2010 and 2828/Del/2013 for AY 2009-2010, are as under:

"A. Whether on facts and in the circumstances of the case the Ld. ITAT erred in holding that the expenditure on construction of Dhallows is allowable revenue expenditure and eligible for amortisation over a period of three years?

B. Whether on facts and in the circumstance of the case the Ld. ITAT erred in deleting addition of Rs.3,00,000/- and Rs.2,50,000/- u/s 68 of the Act when creditworthiness of *parties could not be established?*

C. *Whether on facts and in the circumstance of the case the Ld. ITAT erred in deleting the commission payments disallowed by the Ld. AO, ignoring the fact that the assessee had failed to establish the nexus and justification of the commission payments vis-à-vis the services availed and that a portion of the commission was paid to persons covered u/s 40A(2)(b) of the Act?"*

3. In these appeals, during the course of arguments, a further issue was raised as to whether the CIT (A) was justified in permitting additional evidence to be led during the pendency of appeals.

4. Having heard learned counsel for the Respondent, the Court is of the view that the orders of the CIT (A) as well as the ITAT on the above issues turned purely on facts. Cogent reasons have been given by the CIT (A) for permitting additional evidence to be led. The impugned order of the ITAT does not give rise to any substantial question of law in regard to any of the above issues.

5. The appeals are, accordingly, dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

APRIL 18, 2017/tp