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

\+ **ITA 390/2016**

PR. COMMISSIONER OF INCOME TAX-06 ..... Appellant

Through: Mr. Rahul Chaudhary, Senior Standing Counsel for Revenue.

Versus

NANDAN AUTO TECH LTD. (FORMERLY KNOWN AS GARG FORGINGS AND CASTING LTD.) ..... Respondent

Through: Mr. Ved Jain, Mr.Pranjal Srivastava, Advocates.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

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

% **14.09.2017**

1. The Revenue is in appeal against an order dated 30th September, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 3166/DEL/2009 & 3203/DEL/2009 for the Assessment Year ('AY') 2000-01.

2. The issue urged by the Revenue is whether the ITAT was justified in deleting the additions of Rs. 16,34,83,676/- and Rs.61,69,546/- made by the Assessing Officer ('AO') further restricted to Rs. 80,22,802/- by the Commissioner of Income Tax (Appeals) [CIT(A)] on account of alleged bogus purchases and export sales under Section 68 of the Income Tax Act ('Act')?

3. The basis for the additions by the AO was that purchases had allegedly been made by the Assessee from four bogus entities. It was further alleged that the corresponding sales made thereafter were also to bogus entities. The AO issued notice to the Assessee under Section 148 of the Act for reopening the assessment for the AY in question on the basis of a report of the Directorate of Revenue Intelligence ('DRI') which ultimately resulted in a closure report being filed by the Central Bureau of Investigation in the criminal Court. Despite the AO being aware of the above development, he did not himself undertake any inquiry into the question whether the purchases and sales were made from and to bogus entities.

4. The CIT (A) had in the appeal by the Assessee restricted the additions to peak credits and this led both the Revenue and the Assessee to also file an appeal before the ITAT. The ITAT in the impugned order common to both appeals made a reference to the above fact and held that the additions made by the AO cannot be sustained in law.

5. Having heard learned counsels for the parties, the Court is satisfied that the impugned order passed by the ITAT does not suffer from any legal infirmity. No substantial question of law arises for consideration. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 14, 2017

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