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

\+ **ITA No. 294/2016**

COMMISSIONER OF INCOME TAX
LARGE TAXPAYER UNIT, DELHI ..... Appellant

Through : Mr. Ashok K. Manchanda, Mr. Raghvendra Singh, Senior Standing Counsel for Revenue.

versus

INDIAN RENEWABLE ENERGY ..... Respondent

Through : Mr. Rohit Jain & Mr. Aniket D. Agarwal, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

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

% 22.08.2017

1. This appeal by the Revenue is filed against an order dated 29th May 2015 by the Income Tax Appellate Tribunal ('ITAT') in Delhi in ITA No. 542/Del/2013 relating to the Assessment Year ('AY') 2003-04.

2. The question urged by the Revenue is whether the ITAT was justified in deleting the penalty imposed on the Assessee under Section 271(1)(c) of the Income Tax Act?

3. The brief facts are that the Assessee claimed deduction of Rs. 64 lakhs on account of the fees paid to the Registrar of Companies ('ROC') for

enhancement of capital under the head 'Administrative Expenses' and showed it as such in the Profit & Loss (P&L) Account.

4. The case of the Revenue was that even though the amount in question may have been claimed as 'Administrative Expenses' it was in fact a capital expenditure as held by the Supreme Court in its decision in ***Punjab State Industrial Development Corporation Ltd. v. CIT [1997] 225 ITR 792 (SC)***.

5. The ITAT has, in the impugned order, referred to the decision in ***CIT v. Reliance Petroproducts Pvt. Ltd. [2010] 322 ITR*** **158** ***(SC)*** in coming to the conclusion that this was not a case of concealment of material particulars which would warrant a levy of penalty.

6. Mr. Ashok Manchanda, learned Senior Standing counsel for the Revenue, urged that the ITAT erred in observing in para 20 in the impugned order that, in the computation of the income filed by the Assessee, the above facts were disclosed. He has produced a copy of the revised computation statement filed by the Assessee where there is no such specific disclosure regarding the above claim as 'Administrative Expenses'.

7. On the other hand, learned counsel for the Assessee placed before us a copy of the P&L Account of the Assessee for the AY in question where the fact of the said amount being claimed as 'Administrative Expenses' is clearly mentioned in the notes to the accounts. He points out that the Commissioner of Income Tax (Appeals) ['CIT(A)'] noticed this and then proceeded to revise the assessment order under Section 263 of the Act.

8. Having considered the submissions of the learned counsel of the parties, the Court is of the view that the decision of the ITAT was a plausible one in the facts and circumstances of the case. The Court is unable to agree with the Revenue that there is a deliberate concealment by the Assessee warranting the levy of penalty.

9. No substantial question of law arises. The appeal is, accordingly, dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

AUGUST 22, 2017

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