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

\+ **ITA 565/2017**

PR. COMMISSIONER OF INCOME TAX-6 ..... Appellant

Through: Mr.Rahul Chaudhary, Sr. Standing Counsel for the Revenue

versus

NEC ENGINEERING PVT. LTD. ..... Respondent

Through: None

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

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

% **04.09.2017**

1. This is an appeal by the Revenue against the order dated 11th January, 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 2161/Del/2013 for the Assessment Year 2009-10.

2. The question sought to be urged by the Revenue is whether the ITAT erred in confirming the order of Commissioner of Income Tax (Appeals) ['CIT(A)'] deleting the additions made by the Assessing Officer ('AO') of Rs.1,00,97,816/- on the ground that the Assessee cannot choose to postpone the year in which the amount in respect of a liability ceases to exist is to be offered for taxation in terms of Section 41(1) of the Income Tax Act, 1961.

3. According to the Revenue, the Assessee could not have continued to show debts that had become time barred and claimed deduction on that basis.

4. What has weighed with the ITAT in confirming the order of the CIT (A) is that some of these very creditors were reflected during the AY 2007-08. The Revenue had failed before the ITAT in challenging the order of the CIT (A) deleting the additions made by the AO for the said AY 2007-08. That order had become final.

5. The second reason that weighed with the ITAT is that all the creditors got adjusted as on 31st March, 2012 for the AY 2012-13. The assessment order for the said AY 2012-13 showed that the AO had discussed the writing off of such creditors against certain debit balances. The AO had disallowed the amount relating to debit balances against credit balances and by that action, the AO had taxed the sundry creditors indirectly.

6. This Court is of the view that the impugned order of the ITAT cogently explains why the order of CIT (A) required to be confirmed. The view taken by the ITAT appears to be a plausible one.

7. No substantial question of law arises in the present case. The appeal is dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 04, 2017
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