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

\+ **ITA No. 599/2017**

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

Through : Mr. Rahul Chaudhary, Senior Standing Counsel with Mr.Sanjay Kumar, Junior Standing Counsel for Revenue.

versus

PLANMAN HR PVT. LTD., ... Respondent

Through : Mr. Ved Jain, Ms.Rano Jain, Ms.Devina Sharma, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

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

% 11.09.2017

1. This appeal by the Revenue is directed against an order dated 23rd January 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 5028/Del/2016 for the Assessment Year ('AY') 2013-14.

2. The question urged is as under:

> "Whether on facts and in the circumstances of the case Ld. ITAT was correct in a case in deleting the addition of Rs. 7,91,59,691/- made by the **AO** on account of late deposit of PF, ESI and professional tax ignoring the provisions of Section 36(l)(va) and Section 7(24)(x) of the Income-tax Act, 1961?"

3. Factually, it has been found by the Commissioner of Income Tax (Appeals) [‘CIT(A)’] as well as by the ITAT, concurrently, that the payment by the Assessee employer towards the employees’ contribution of the Provident Fund was made before the date of filing of the return by the Assessee and thus, in terms of the decision of this court in ***Commissioner of Income Tax v. AIMIL Ltd. [2010] 321 ITR 508 (Del)***, it was within the ‘due date’ for the purpose of Section 36 (1) (va) of the Income Tax Act, 1961 (‘Act’) read with Section 43 (B) thereof.

4. Learned counsel for the Revenue attempted to persuade this Court to reconsider the correctness of its decision in ***Commissioner of Income Tax v. AIMIL Ltd.*** *(supra)***.** The Court finds that the decision has consistently been followed in later decisions of this Court and even by the Allahabad High Court in ***Sagun Foundry Private Limited v. Commissioner of Income Tax, Kanpur (2017) 291 CTR (All) 557*** and the Karnataka High Court in ***M/s Essae Teraoka Pvt. Ltd. v. Deputy Commissioner of Income Tax [2014] 366 ITR 408 (Kar)***.

5. Accordingly, the Court is not persuaded to frame the question of law as urged by the Revenue. The appeal is dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 11, 2017
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