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

\+ ITA 948/2017, CM APPL.40192-40193/2017

PR. COMMISSIONER OF INCOME TAX - 17 ..... Appellant
Through: Mr. Rahul Kaushik, Sr. Standing Counsel.

versus

SATISH CHANDER SIKKA ..... Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% **08.11.2017**

1. In this appeal, the Revenue questions an order of the Income Tax Appellate Tribunal ("ITAT") directing the deletion of total amount of ₹2,35,00,000/- brought to tax under Section 68 of the Income Tax Act, 1961 for AY 2008-09.

2. According to the assessee, the amounts were borrowed from various individuals and entities for the purchase of property. The amounts were given by five companies/entities. During the course of assessment proceedings, the Assessing Officer had enquired into these amounts; the assessee had provided the details and particulars of the entities who provided the cash. The AO doubted the genuineness of the transactions since the advances were made "not through" regular documents but on plain paper and there was no interest charged.

3. The ITAT in its impugned order was of the opinion that a proper

appreciation of the circumstances especially the fact that the credits were confirmed by the entities who advanced them, could not have led to the conclusion that the income could be brought to tax under Section 68. In holding so, the ITAT took note of the transactions for the previous assessment years, i.e., 2007-08, the cash in hand in question etc.

4. This Court has considered the grounds of appeal urged by the Revenue and the submissions of the counsel. What was highlighted was that the nature of the transactions was dubious and what is more no interest was charged at the time when the amounts were paid.

5. This Court is of the opinion that the conclusions and findings of the ITAT are truly factual. A re-appreciation of the evidence - unless it is shown that the findings of the Tribunal are unreasonable - is not warranted under Section 260A. Furthermore, the decision of the Supreme Court in *CIT v. Lovely Exports,* (2008) 216 CTR 195 (SC) is an authority for the proposition that the assessee is not under any obligation to prove the source of the source of the credit or the share application money it receives.

6. This Court is, therefore, satisfied that no question of law arises; the appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 08, 2017/*vikas*/