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

+ ITA 1067/2017

THE PR.COMMISSIONER OF INCOME TAX-3

..... Appellant

Through: Mr. Ruchir Bhatia with
Mr. Puneet Rai & Mr. Gaurav Khetarpal,
Advs.

versus

EMBRYONIC PROPERTIES LTD. Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **28.11.2017**

1. The Revenue is aggrieved by the ITAT's decision with respect to the deletion of ₹4,32,42,500/-, for A.Y. 2009-10.

2. The assessee, which is engaged in business of accommodation, construction, development and sale of integrated townships, had claimed that ₹4,32,42,500/- – shown as an outstanding amount and recoverable from one Mr. Kishore, needed to be written off. The AO held that the write off was impermissible because the amount was not in respect of its asset but on account of the stock-in-trade expenditure. The

amount was therefore disallowed. The CIT(A) granted relief by treating the amount as a business loss. The ITAT affirmed this finding. In doing so, the ITAT relied upon the judgment of this Court in *Mohan Meakin Ltd. v. Commissioner of Income Tax* 348 ITR 109 (Del.).

3. As is evident, the facts disclose that there are concurrent findings. Besides, treatment of particular amounts is not to be based only on the manner of the assessee's reporting or its treatment in the books but as to its true nature as ruled in *Kedarnath Jute Manufacturing Co. Ltd. v. Commissioner of Income Tax* (1971) 82 ITR 363; furthermore this kind of treatment (i.e. writing off of business related debts), as a business loss, was upheld in *Mohan Meakin Ltd.* (supra). No question of law therefore arises.

The appeal is consequently dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 28, 2017
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