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

\+ **ITA 1094/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX - 3..... Appellant

Through : Mr Sanjay Kumar and Mr Rahul Chaudhary, Advocates.

versus

ESCORT HEART INSTITUTE & RESEARCH CENTRE LTD. ..... Respondent

Through : Mr Simran Mehta, Advocate.

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

O R D E R

% **04.12.2017**

1. The Revenue urges two questions in this Appeal – for Assessment Year 2008-2009, under Section 260A of the Income Tax Act, 1961.

2. The first question relates to disallowance of Rs.3,07,63,223/- on account of interest payment made to the extent of loan advance to the Assessee sister concern, under Section 36(1)(iii) and the second question relates to depreciation to the tune of Rs.1,00,30,472/- towards assets received by the Assessee without consideration.

3. The Assessee provides Health Care Services; its return for the concerned Assessment Year were scrutinized by the Assessing Officer on the ground that the interest free advance given to the sister concern be disallowed under Section 36(1)(iii).

4. The Commissioner of Income Tax (Appeals) granted relief in this aspect; the Income Tax Appellate Tribunal(ITAT) confirmed those findings.

5. Both the said authorities noticed that the Company had adequate surplus and reserves – to the extent of Rs.188 crores.

6. In the circumstances, disallowance was not warranted. On this aspect, the question having been considered by the CIT(A) and confirmed by the ITAT, the Court is of the opinion that no question of law arises.

7. So far as the question on account of depreciation rule is concerned, the Court notices that firstly, similar disallowances were not permitted – when re-assessment was sought to be made.

8. Furthermore, such depreciation is also permissible in accordance with the principles enunciated in *CIT versus Sheth Manilal Ranchhoddas Vishram Bhavan Trust*, 198 ITR 598(Guj.) and other subsequent decisions.

9. In the light of the foregoing discussions, this Court is of the opinion that no substantial question of law arises.

10. The Appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 04, 2017

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