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

\+ ITA 1035/2017

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

Through: Mr. Sanjay Kumar, Mr. Rahul Chaudhary, Standing Counsel

versus

M/S RAJASTHAN EXPLOSIVE & CHEMICALS LTD. ..... Respondent

Through: Ms. Ananya Kapoor, Adv.

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

O R D E R

% 22.11.2017

The question of law sought to be urged by the Revenue under Section 260A of the Income Tax Act is where the disallowance in respect of the Director's remuneration, disallowance of expenditure and the corresponding taxation of the amount under Section 40A (2) (b) of the Act was justified and the cancellation of the amount brought to tax was justified.

So far as the Director's remuneration is concerned, the Court notices that the AO added Rs. 72 lakhs after disallowance of substantial portion of the remuneration claimed merely on the ground that the Directors were relatives of the managing director and according to him were inadequately qualified. This is hardly an appeal with rationale and certainly one that can sustain disallowance which has to be based upon logical grounds. The AO appears to have made a commercial decision as to what should be a cap applicable for such remuneration, and thus placing himself in the armchair of the assessee which he could not have done. Likewise, so far as the disallowance of the expenses is concerned, the Court is of the opinion that the method adopted i.e. a cut of 10% of the total expenditure claimed, was not based on any reasoning.

Having regard to these circumstances, the Court is of the opinion that no substantial question of law arises. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 22, 2017
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