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

\+ ITA 1108/2017, CM APPL.44156/2017,
ITA 1109/2017, CM APPL.44157/2017 &
ITA 1110/2017, CM APPL.44158/2017

PR. COMMISSIONER OF INCOME-TAX - 6 ..... Appellant
Through: Mr. Asheesh Jain, Sr. Standing Counsel with Mr. Shahrukh Ejaz, Advocate.

versus

NEW HORIZON BUILDWELL P. LTD. ..... Respondent
Through: Mr. Ved Jain with Ms. Rano Jain and Ms. Devina Sharma, Advocates.

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

O R D E R

% **05.12.2017**

The Revenue is aggrieved by the common order of the Income Tax Appellate Tribunal ("ITAT"); its appeal under Section 260A urges that the impugned order is in error of law.

The assessments in these cases were completed under Section 153A/143 after a search was conducted in the premises of the assessee. On the strength of the materials seized, inferences were drawn that it had concealed income received from its customers. The *modus operandi* attributed to the assessee was that it received certain amounts but did not declare them in its return and on the other hand disclosed fraction of such consideration - received for the commercial units built by it. The AO was considerably swayed by the ledger and related documents (Annexure D-1 & A-3) and concluded that the assessee had attempted to erase certain pencil markings/entries in the ledger. The assessee's appeals received exhaustive scrutiny after a remand report was called for by the CIT (A). The appellate Commissioner concluded that the AO's inference that unaccounted cash had been received were baseless. In doing so, the CIT (A) considered the assessee's explanation and the other related documents and after taking an overall view concluded that the additions were not justified. The ITAT affirmed those findings.

Learned counsel for the Revenue urged that the CIT (A) and the ITAT fell into material error of law in misappreciating the evidence which clearly pointed to manipulation and attempts to conceal real income. It is submitted that on account of this perversity, the substantial question of law arises.

The Court has considered the submissions. Facially, the AO's order itself discloses that the suspect entries, which led the officer to conclude the concealed income that the assessee's misdeclared and rather concealed substantial amount, were based upon the partial reading of the figures existing in the seized documents. A holistic reading of the materials, in our opinion, justifies the findings of the CIT (A) and the ITAT. In these circumstances, the Court discerns no substantial question of law as to the wrongful appreciation of the facts as is urged by the Revenue. The appeals, therefore, are dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 05, 2017
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