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

\+ ITA 171/2018

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL)-1 ..... Appellant

Through: Mr. Sanjay Kumar & Mr. Rahul Chaudhary, Standing Counsels for Revenue.

versus

M/S ADAMINE CONSTRUCTION PVT. LTD. ..... Respondent

Through: None.

**CORAM:**
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**
**HON'BLE MR. JUSTICE A. K. CHAWLA**

**<u>O R D E R</u>**

% **12.02.2018**

The Assessing Officer in this case had – based upon the search conducted in the premises of a third party, issued re-assessment and proceeded to add ₹9,30,00,000/- as unexplained investment under Section 68 of the Income Tax Act, 1961 (hereafter referred to as "the Act"). The amounts received were from 7 entities and the AO sought report from the Commissioner at Mumbai and Kolkata. The CIT(A) and the ITAT concurrently deleted the amounts brought to tax under Section 68 of the Act, holding that the relevant enquiry based upon the materials furnished by the assessee had not been made.

We notice that the search in the premises of the Bhushan Steel Group, had led to survey in the premises of various other assessees including M/s Adamine Construction Pvt. Ltd., and in the end the additions made in that case too were deleted. The deletion – again concurrently by the lower appellate authorities was upheld by this Court recently in respect of the same assessee for an earlier assessment. Here too, the Court has considered the materials. What is evident is that the AO went by only the report received and did not make the necessary further enquiries – such as into the bank accounts or other particulars available with him but rather received the entire findings on the report, which cannot be considered as primary material. The assessee had discharged the onus initially cast upon it by providing the basic details which were not suitably enquired into by the AO.

No question of law arises; the appeal is consequently dismissed.

**S. RAVINDRA BHAT, J**

**A. K. CHAWLA, J**

**FEBRUARY 12, 2018**
**kks**