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

\+ **ITA 634/2017**

PR COMMISSIONER OF INCOME TAX-2 ..... Appellant

versus

M/S CHRYS CAPITAL INVESMENT ADVISORS PVT LTD ..... Respondent

\+ **ITA 346/2018**

PR. COMMISSIONER OF INCOME TAX ..... Appellant

versus

CHRYSCAPITAL LTD. ..... Respondent

\+ **ITA 349/2018**

PRO COMMISSIONER OF INCOME TAX- 2 ..... Appellant

versus

MIS CHRYS CAPITAL INVESTMENT ADVISORS (INDIA) PVT. LTD. ......Respondent

Present : Mr.Zoheb Hossain, Sr.Standing Counsel for Revenue and Mr. Piyush Goyal, Advocate for Revenue/appellant.
Mr.Vikas Srivastava, Mr.Mayank Aggarwal and Ms.Kanika Jain, Advocates for respondent/applicant.

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

O R D E R

% **30.05.2018**

CM APPL 23540/2018 in ITA 634/2017
CM APPL 23541/2018 in ITA 346/2018
CM APPL 23542/2018 in ITA 349/2018

Notice.

Mr. Zoheb Hossain, counsel for Revenue accepts notice.

It is brought to the notice of the Court through these applications that an error in extracting the relevant part of the impugned judgment of the ITAT has crept in. It is further pointed out that the extract, in the order dated 16.4.2018 of this Court, is a wrong part of the appeal.

Learned counsel for the parties submit that the Court had referred to paras 34 to 36 of the impugned order of the ITAT. It is also stated that the appeals cover Assessment Years 2006-07 and 2007-08.

In view of the submissions made, the para 6 of the existing order (dated 16.4.2018) of this Court shall be substituted in the following manner:

> "6. In this case the ITAT took note of the fact that the profitability of M/s Keynote Corporate Service Ltd. arose unusually to 185% from the reported level of 94%. The ITAT recorded the finding as follows:
>
> > *"34. M/s. Keynote Corporate Services Ltd. is selected by ld. TPO as a suitable comparable having margin of 139.00%. The ld. CIT (A) by taking into account volatile profit of the company to the tune of 145% due to the alliances formed with a Middle East based consulting companies and Swiss based consulting*

companies and has also launched ESOP Division which focused on designing and implementing stock option schemes for corporate. Ld. CIT (A) also relied upon the decision rendered by DRP in assessee's own case for AY 2006-07 wherein M/s. Keynote Corporate Services Ltd. is held to be not a robust comparable.

35. Undisputedly, business model of Mis. Keynote Corporate Services Ltd. was restructured during the year ending 31.03.2007 which is reproduced from page 8 of the annual report of 2006-07 for ready reference as under :-

"Business Restructuring

During the year ended 31st March, 2007, the scheme of Amalgamation of group companies viz Cobal Investment Company limited, West Coast Lighterage Company Private Limited, Starline Ispat and Alloys Limited, Galaxy leasing Limited, Keynote Finstock Limited, Plethora Investments Company Limited (the transferor companies") with Keynote Corporate Services Limited ("the transferee company") have been approved by Hon'ble High Courts, at Allahabad, Bombay and Guwahati vide their orders dated 21st December, 2006, 9th March 2007 and 19th March, 2007 respectively and effected. During this financial year, in terms of the Scheme of Amalgamation 77,170 new Equity Shares were issued to the shareholders of transferor companies and 14,51,702 Equity Shares have been transferred to "Keynote Trust." All the relevant formalities/procedures relating to the said orders have been completed.

16. Pursuant to the scheme of Amalgamation between Cobal Investment Company Limited, West Coast

Lighterage Company Private Limited, Starline Ispat And Alloys Limited. Galaxy Leasing Limited, Keynote Finstock Limited and Plethora Investments Company Limited (hereinafter known as Transferor companies) and Keynote Corporate Services Limited (hereinafter known as Transferee company) approved by shareholders and then approved by the Honorable High Court of Allahabad, Bombay, Guwahali vide their orders dated 21st December, 2006, 9th March, 2007 & 19th March, 2007 respectively. The assets and liabilities of the Transferor companies are vested in the Transferee Company with retrospective effect from 1st April, 2005, the appointed date under the scheme. The accounts of the Transferee Company for the period ended 31st March, 2007 are drawn up to give effect to the scheme. "

36. Ld. DR for the Revenue contended that issue of amalgamation has not been considered by the ld. CIT (A). Only 'the shareholding pattern of M/s. Keynote Corporate Services Ltd. is changed with amalgamation which has not affected the profit. However, this contention is not tenable in the face of uncontroverted fact that the profit margin of assessee company has' 'raised up to 145% during the year under assessment which is extremely volatile and abnormal and is due to the amalgamation' and merger. Moreover, launch of ESOP Division which focused on designing and implementing stock option scheme for corporate, the business model of comparable company has undergone a change. So, we are of the considered view that the ld. CIT (A) has rightly excluded M/s. Keynote Corporate Services Ltd. As unsuitable comparable."

It is also clarified that the appeals disposed of are related to Assessment Year 2006-07 and 2007-08. Furthermore, the assessee/respondent shall be described as M/s Chrys Capital Investment Advisors Pvt. Ltd. The above corrections shall be carried out by the Registry to the order dated 16.4.2018 and shall be duly incorporated. The applications are allowed in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 30, 2018
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