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

\+ ITA 244/2018

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

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

versus

NRA IRON & STEEL 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>

% **26.02.2018**

The Revenue is in appeal against the order of Income Tax Appellate Tribunal (ITAT), which upheld the CIT(A)'s direction to delete the amounts brought to tax by the Assessing Officer (AO).

The AO for AY 2008-09 re-opened assessment under Section 147 based upon the information received, pursuant to search conducted in the premises of third party. The AO sought to rely upon the reports received from companies situated in Mumbai, Kolkata and Guwahati. The additions were made based upon these reports. The CIT(A) directed that a sum of Rs.17.6 crores brought to tax under Section 68 was not justified. Upon appeal, CIT(A) was of the opinion that the AO did not conduct any sufficient enquiry and given the material that had been placed on record by assessee, the genuineness of the creditors as well as the transactions had been prima facie disclosed which amounted to discharge of onus upon it. The ITAT rejected the revenue's objections.

The Court notices that CIT(A) in this case quite correctly had examined the entirety of the facts and concluded, as follows :

> *"3.3 I have considered the rival claims. The fact that appellant filed the requisite documents before the AO is undisputed. Thus, the appellant had discharged its primary onus of establishing the identity of the share holders / applicant ire source of the money. The only reason for revenue to cause further verification was the report relating to survey conducted at the premises of the appellant which forms part of the satisfaction recorded for reopening the assessment proceedings. From the said report it transpires that the business premises of the appellant actually belonged to M/s Bhushan Steel Ltd. and -several other companies were having their registered offices in the same premises. This led to the suspicion that these companies were paper companies. During further verification of the identity of the shareholders in Mumbai, some summons were served but parties did not respond. In Guwahati, both parties were not found at the given address. In Kolkata, all 11 parties responded by post but no one appeared.*
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> *3.4. There is no law that more than one company cannot have its registered of me at one address. There is no law that companies cannot change their registered office. Several companies can have the same registered office. Businesses raise capital and such capital is rotated in economy for increasing is the normal formation of capital in any open economy and the process of capital formation cannot be taken*

to be representing only unaccounted finds or impeded. All the companies having registered office at that premises undisputedly belonged to Bhushan Group. The sources of capital introduced in these - companies were established during the respective assessment proceedings, including in the case of this appellant company. No evidence was found during the search to indicate introduction of unaccounted cash / finds in the form of share capital in these companies. Therefore, the conclusion based on the facts relied upon by the revenue that the share capital introduced in the companies belonging to Bhushan Group, including the appellant company, are unexplained, is at best premature.

3.5. In the above facts and circumstances of the matter, and in view of the case laws relied upon by the Ld. AR, the addition made cannot be legally sustained and ***is*** *deleted. This ground of appeal is allowed."*

This Court is of the opinion that the issues urged are on facts and the lower appellate authorities have taken sufficient care to consider the relevant circumstances including the extract of the chart with respect to the amounts received from each creditor. No substantial question of law arises. The appeal is consequently dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 26, 2018
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