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

\+ ITA 358/2018

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

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

versus

M/S PRANIDHI HOLDINGS 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>

% **23.03.2018**

The Revenue's appeal under Section 260A of the Income Tax Act, 1961 (hereafter referred to as "the Act") questions the ITAT's order holding that the addition of ₹1,19,45,000/- under Section 68 of the Act was unjustified.

The amounts were brought to tax under Section 68 in the course of the assessment proceedings since the assessee could not produce satisfactory material to establish the identity of the share applicants or the genuineness of the transaction as well as their creditworthiness. In the assessee's appeal, the relevant details (PAN numbers, Tax Returns of creditors, copies of their bank account statements) were produced. The Appellate Commissioner sought a remand report. The AO did not respond to these documents though afforded an opportunity. Inferring that the AO had not displaced the onus that lay upon the Revenue, the CIT(A) allowed the appeal.

The ITAT concurred with the Appellate Commissioner's view holding as follows:

> *"17. Moreover, when the assessee has brought on record all the documents necessary to establish the creditworthiness of the creditors and genuineness of the transaction and the AO has not preferred to file any comment, we find no scope to interfere into the findings returned by ld. CIT(A). Moreover, perusal of the assessment order also goes to prove that the AO has not even preferred to summon the parties to make compete enquiry so as to establish the creditworthiness of the creditors and genuineness of the transactions. In these circumstances, judgments cited as CIT-II vs. M/s Jansampark Advertising and Marketing (P) Ltd. ITO 525/2014 dated 11.03.2015 and CIT(Centra1-1) vs. Manish Buildwell Pvt. Ltd.- ITA 928/2011 dated 15.11.2011 relied upon by ld. DR are not applicable to the facts and circumstances of the case.*
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> *18. In view of what has been discussed above, appeal being ITA no. 2222/De1./2014 filed by the Revenue is hereby dismissed."*

This Court considered the grounds of appeal; they urge pure questions of facts and appreciation of evidence. Having regard to the overall circumstances, the failure of the AO to comment upon the materials produced before the CIT(A) which *prima facie* resulted in the discharge of the initial burden rest upon the assessee, justified the deletion of the amounts brought to tax under Section 68 of the Act. As such, no question of law arises; the appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 23, 2018
kks