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

\+ **<u>ITA 596/2018 & CM APPL. 21043/2018</u>**

THE PR. COMMISSIONER OF INCOME TAX -4 ..... Appellant

Through: Mr. Ruchir Bhatia, Adv. for Revenue.

versus

M/S GARG CONCAST LTD. ..... Respondent

Through: Mr. Pranjal Srivastava, Adv.

AND

<u>ITA 597/2018 & CM APPL. 21044/2018</u>

THE PR. COMMISSIONER OF INCOME TAX -4 ..... Appellant

Through: Mr. Ruchir Bhatia, Adv. for Revenue.

versus

M/S GARG CONCAST LTD ..... Respondent

Through: Mr. Pranjal Srivastava, Adv.

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

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

% **21.05.2018**

The Revenue's claim to the decision of the Income Tax Appellate Tribunal (ITAT) in these two appeals under Section 260-A of the Income Tax Act, 1961 (hereafter 'the Act') is on two counts of additions made on allegations of bogus purchasers. The first amount i.e. ₹49,10,442/- which was upheld by the CIT(A) but set aside by the ITAT whereas, on the second amount i.e. ₹1,38,32,000/- both the lower appellate authorities concurred that the additions were not justified. On the second addition, the ITAT further noticed that the basis i.e. allegations of bogus purchasers and bogus invoices levelled by the customs authorities were the subject matter of the appeal made to the Punjab and Haryana High Court, which had accepted the assessee's contentions and allowed the appeal.

At the outset, this Court notices that like in the present case the assessee's sister concern too were subjected to re-assessment proceedings which culminated in an order favourable to it. The Revenue in its appeal to this Court [i.e. ITA 390/2016, *Pr. Commissioner of Income Tax-06 vs. Nandan Auto Tech Ltd. (Formerly known as Garg Forgings and Casting Ltd.)*] also had urged that the bogus purchases had been unlawfully claimed and consequently re-opened the assessment. The Court had repelled the Revenue's arguments with respect to the Tribunal's error in appreciating the evidence.

In the present case, the ITAT has ruled that the AO did not conduct any independent inquiry from the suppliers who provided material that became suspects as bogus purchasers. In *Nandan Auto Tech Ltd. (supra)* too the Revenue's authorities had failed to make independent inquiries after issuing notices under Section 148 of the Act.

In these circumstances, the Court is of the opinion that no substantial question of law arises. The appeals are therefore dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 21, 2018/nn