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

\+ ITA 690/2017

PR. COMMISSIONER OF INCOME TAX-04 ..... Appellant

Through: Mr. Zoheb Hossain, Sr. Standing Counsel for the Revenue.

versus

M/S G4S CORPORATE SERVICES (INDIA) PVT. LTD. ..... Respondent

Through: Mr. Ajay Vohra, Sr. Advocate with Mrs. Kavita Jha and Mr. Vaibhav Kulkarni, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% **25.09.2018**

This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 in the case of M/s G4S Corporate Services (India) Private Limited relates to Assessment Year 2010-11 and arises from the order of the Income Tax Appellate Tribunal (Tribunal for short) dated 28th November, 2016.

2. The appeal has been admitted for hearing on the following substantial question of law:-

> "Did the ITAT fall into error in holding that the addition of Rs.1,54,04,980/- as excessive expenditure under Section 40A of the Income Tax Act, 1961 and the other provisions, was erroneous having regard to Section 198A and 309(5A) of the Companies Act, 1956?"

3. Learned counsel for the appellant-Revenue has drawn our attention to the impugned order of the Tribunal which quotes in detail the findings

recorded by the Commissioner of Income Tax (Appeals) and thereafter in paragraph 6 observes that the findings recorded by the first appellate authority were correct and well-reasoned and do not require interference. There was no elucidation and discussion with reference to the provisions of the Companies Act, 1956 i.e. Sections 4198, 30958 and 629A. It is also submitted that the order of the first appellate authority was contradictory.

4. Learned senior counsel for the assessee, at this stage, on instructions submits and accepts that the order passed by the Tribunal does not examine the contentions and issues which arise for consideration. He has no objection if an order of remit is passed for fresh adjudication and decision by the Tribunal.

5. Taking the statement on record, we partly accept the appeal and set aside the impugned order by answering the substantial question of law with an order of remand for the fresh decision by the Tribunal in accordance with law. We clarify that we have not expressed any opinion on merits and issue would be examined without being influenced by the first order and this order. The appeal is disposed of, without any order as to costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

SEPTEMBER 25, 2018
MR