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

\+ ITA 166/2018

THE PR. COMMISSIONER OF INCOME TAX -CENTRAL -3 ..... Appellant

Through: Mr. Ruchir Bhatia, Sr. Standing Counsel for Revenue.

versus

FLEX INTERNATIONAL PVT. LTD. ..... Respondent

Through: Mr. K.N. Ahuja, Adv.

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

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

% **12.02.2018**

The Revenue is aggrieved by the deletion ordered by the CIT(A) and the ITAT, in respect of additions made under Section 68 of the Income Tax Act, 1961 (hereafter referred to as “the Act”) (to the extent of ₹10,35,50,000/-). The assessee had claimed in its returns that amounts were received through share applications from Shree Mahabir Management Services Pvt. Ltd. The AO was not satisfied with the explanation with respect to the genuineness of the transaction or the creditworthiness of the said investor and had added back the amount. The CIT(A) and the ITAT concurrently set aside the AO’s determination. The ITAT noted that in the previous year 2006-07, similar additions had been set aside. That order of the ITAT (for the previous year) was upheld by this Court in its judgment dated 16.04.2015 (*Commissioner of Income Tax v. Anshika Consultants Pvt. Ltd.;* ITA No.467/2014 & connected cases). The said decision also indicates that the same investment made by Shree Mahabir Management Services Pvt. Ltd. (which is the sole entity whose investment/application money is the subject matter of Section 68 of the Act in the present case) was a share applicant. The Court had affirmed the ITAT's decision. For the same reasons – spelt out in ITA No.467/2014, this Court is of the opinion that there is no infirmity discernible in ITAT's order; no question of law arises as the matter pertains to pure question of fact in the face of concurrent findings. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 12, 2018
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