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

\+ ITA 155/2018 & CM APPL. 5083-5084/2018

QUARTZ COMMERCIAL PRIVATE LIMITED ..... Appellant
Through: Mr. K R Manjani, Advocate

versus

INCOME TAX OFFICER WARD 20(3) .... Respondent
Through: Mr. Raghuvendra Singh with Mr. Ashok Manchanda, Advocates

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

O R D E R

% **09.02.2018**

The assessee's appeal under Section 260-A of the Income Tax Act, 1961 complains that the lower authorities concurrently fell into error in not noticing that the amounts brought to tax (₹7,87,000/-) was entirely based on surmise and conjecture.

The AO in this case rejected the finding that the assessee had routed the share application money to the tune of ₹15,70,00,000/- within certain group companies the same day. The assessee received share application money with share application premium of ₹390 per share of M/s. Platinum Agency Pvt. Ltd. as well as M/s. Radium Consultancy Pvt. Ltd., and from the third entity, i.e. M/s. Laurels Properties Pvt. Ltd., but on 28.03.2007. These were shown as invested share money, in those very companies on behalf of the foreign entities. The amounts too were received on rotational basis.

This business model adopted by the assessee was brought to tax by application of commission of 0.5% on the total turnover during the year, resulting in an addition of ₹7,87,000/-

The CIT(A) upheld the AO's finding ; the ITAT concurrently held as follows:-

> *"7.2 We have carefully considered the submissions and perused the records. We find that in this case a show cause notice was given to the assessee. We find that the Assessing Officer has asked the assessee to furnish the reply with supporting documentary evidence and also complete books of accounts along with complete bills and vouchers and also bank statements in support of the assessee's claim. However, thereafter in the assessment order there is no mention about the aforesaid requisition made by the Assessing Officer. Under the circumstances, we find that it remains to be verified whether the assessee has maintained proper books of accounts or not. Hence, the submissions of the assessee that the additions were not warranted as the assessee has maintained proper books of accounts, needs to be verified. In our considered opinion, the interest of justice will be served, if the matter is remitted to the file of the Assessing Officer. The Assessing Officer is directed to examine the assessee's books of accounts and give a finding thereon."*

We have heard the counsels and also considered the submissions. We are of the opinion that since all the authorities have concurrently given the finding, no question of law arises. Therefore the appeal is dismissed.

S. RAVINDRA BHAT, J

FEBRUARY 09, 2018/P **A. K. CHAWLA, J**