$~7-10 & 12-13

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

<u>ITA 142/2018 & CM APPL. 5054/2018</u>
<u>ITA 143/2018</u>
<u>ITA 144/2018 & CM APPL. 5057/2018</u>
<u>ITA 145/2018 & CM APPL. 5058/2018</u>
<u>ITA 147/2018 & CM APPL. 5061/2018</u>
<u>ITA 148/2018 & CM APPL. 5062/2018</u>

PRINCIPAL COMMISSIONER OF INCOME TAX-8..... Appellant
Through: Mr. Sanjay Kumar, Adv.

versus

SALDI CHITS 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>
% **09.02.2018**

The Revenue is aggrieved by the findings of Income Tax appellate Tribunal (ITAT) for block assessments completed under Section 153C of the Income Act ('the Act'). During the search undertaken on Thapar Group on 20.10.2008, some material relating to the assessee was found in its premises. The file was therefore, transmitted to the Assessing Officer (AO) of the assessee, who issued notice under Section 153C. Eventually, this led to substantial additions - under Section 69C and 68 of the Act. The CIT(A) also upheld the findings of the AO with respect to most of the additions. The ITAT however, granted relief to the assessee, which had questioned both the assessment under Section 153C on the ground of lack of jurisdiction (alleging that no satisfaction has been urged and that alleged incriminating material had no nexus with the additions made, was revealed). The ITAT accepted both contentions. The ITAT reasoned as follows :

> *"……..Since in the instant case only cheque book entries belonging to the assessee were found during the course of search in the premises of the M/s. Thapar Homes Group which was not taken into cognizance while making addition in the assessee's case at the time of Assessment, therefore, issue of notice u/s. 153C of the Income Tax Act by the AO in our opinion is not a valid notice. Therefore, the decision of the Hon'ble Delhi High Court in the case of SSP Aviation Ltd. (Supra) will not be applicable in the present case. However, since all the entries found in those documents have already been reflected in the books of accounts as per the records furnished by the assessee and which was not controverted by the Ld. DR, therefore no addition u/s 68 could have been made……..."*

The ITAT also relied upon the judgment of this Court in *ARN Infrastructure India Ltd. Vs. ACIT,* (2017) 394 ITR 569, wherein, it was held that if documents seized from a third party do not show nexus with any omission or concealed, income tax addition cannot be sustained under Section 153C of the Act.

Since the ITAT is the final fact finding authority and had gone into the evidence and applied the rules enunciated by this Court's decisions, and further having regard to the fact that the material used to bring to tax amounts under Section 68 and 69C, in fact had no nexus with the assessee, since they were mere cheque books (the amounts in fact reflected in the assesee's account), this Court is of the opinion that no question of law arises. These appeals are therefore, dismissed. All the pending applications also stand disposed off.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 09, 2018
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