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

\+ ITA 63/2019, CM APPL. 3704/2019

THE COMMISSIONER OF INCOME TAX –LTU ..... Appellant
Through: Mr. Ruchir Bhatia, Advocate with Mr. Puneet Rai, Advocate.

versus

MAHANAGAR TELEPHONE NIGAM LTD. ..... Respondent
Through: Mr. Ved Jain, Mr. Kislaya Parashar, Mr. Mekhala Benny & Umang Luthra, Advs.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **25.01.2019**

The revenue is aggrieved by the order of ITAT which upheld the CIT(A)'s order which held that the reassessment under Section 147/148 was invalid. The reasons for reopening of notice – which is extracted by the impugned order in Para 4, were that the assessee had debited interest on customer's deposits to the extent of ₹1.97 crores, the profit and loss account for AY 2007-08 and claimed expenditure under Section 77. The 'reason to believe' appears to have been solely based upon the re-appreciation of the previous orders on completed assessment by the AO. Clearly, this move was impermissible as such a second opinion or review is not permitted to the statutory authority under Section 147/148; that power can be resorted to only after there is tangible material outside the record indicating any ground for reassessment or that the returns materially suppressed in relevant facts and circumstances. Since in the facts of this case clearly the revenue resorted to the power in an impermissible manner, the order of the ITAT cannot be faulted. No substantial question of law arises. The appeal is therefore dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 25, 2019/akv