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

\+ ITA 951/2019

PRINCIPAL COMMISSIONER OF INCOME TAX, (CENTRAL)-3 ..... Appellant

Through: Ms. Vibhooti Malhotra and Mr.Siddharth Manocha, Advocates.

versus

M/S ROYAL BEVERAGES PVT. LTD ..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **15.11.2019**

C.M. No. 49114/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

ITA 951/2019

The Revenue has preferred the present appeal to assail the order dated 25.06.2019 passed by the Income Tax Appellate Tribunal, Delhi Bench "D": New Delhi in ITA No. 5214/Del/2015 in respect of the respondent assessee in respect of the Assessment Year 2011-12. The Tribunal has dismissed the said appeal preferred by the Revenue against the order dated 22.05.2015 passed by the learned CIT (Appeals).

The respondent assessee is engaged in the business of distribution of potable liquor. The assessee is part of "*Chadha Group*". A search was undertaken against the said group under Section 132 of the Act on

01.02.2012. Thereafter, notice under Section 153A of the Act was issued to the assessee on 10.04.2013. The assessee filed return of income on 22.05.2013 showing taxable income of Rs.19,67,70,190/-. The assessee showed its gross profit at 4.75% during the Financial Year 2010-11. The assessee was questioned and asked to explain the difference in the gross profit rate claimed by it at 4.75% as opposed to the gross profit in respect of other similar entities, which was in the range of 6%. The assessee offered its explanation to the Assessing Officer, which was not accepted. The Assessing Officer, consequently, recalculated the gross profit @ 6%, and on that basis, made addition in the taxable income of the assessee. The CIT (Appeals) allowed the appeal preferred by the assessee.

The Tribunal has rejected the appeal preferred by the Revenue on the premise that the Assessing Officer has not doubted and, therefore, not rejected the books of accounts presented by the assessee. Consequently, it was not open to the Assessing Officer to proceed to make an assessment of the net profit of the assessee on the basis of the comparison made with the industry & trade.

In our view, the reasoning adopted by the Tribunal appears to be sound, and therefore, no question of law arises for our consideration in the present appeal.

Dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 15, 2019
B.S.Rohella