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

\+ ITA 162/2019

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

Through: Mr. Ruchir Bhatia, Sr. Std. Counsel.

versus

JANAK INFRA PROJECTS PVT. LTD. ..... Respondent

Through: None.

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

O R D E R

% **15.02.2019**

1. The Revenue is aggrieved by the order of the ITAT which affirmed the order of the CIT(A) made in the course of assessment and contends that the impugned order is erroneous and needs interference.

2. The assessee was subjected to search and seizure action on 19.01.2009 in the course of which the documents filed as balance sheet was seized. Based upon these documents, the AO made certain additions. The CIT(A) on appeal by the assessee, deleted the additions, accepting the assessee's explanation, that the document issued were in fact trial balance sheet and audited balance sheet was filed on 31.03.2009 where the value of the fixed assets was shown correctly as ₹ 75,37,792/-. The addition was made originally of ₹2,68,68,814/-. The assessee successfully explained the difference between the final balance sheet and the trial balance sheet.

3. The relevant order of the ITAT reads as follows:-

"After hearing both the parties and on perusal of the relevant

findings given in the impugned order as well as the documents *referred to before us, we find that the addition which has been made by the Assessing Officer is solely based on the difference in the value of fixed assets shown in the seized trial balance as on 09.01.2009 and the audited balance sheet as on 31st March, 2009. Nowhere from the records, it is borne out that any unaccounted fixed assets or investments was found during the course of search and the entire variation in the figures in the balance sheet as on 09.01.2009 was fully explained by bringing on record that fixed assets were sold during the year for which certain computation for Long Term Capital Gain has been shown by the assessee. The difference in the figure of asset mainly relates to plant & machinery, fire equipment, genset, laboratory equipments, furniture and fixture, computer, etc and the difference is purely on account of sale of assets and claim of depreciation made under various heads which has not been considered in the trial balance. Such a difference has been again sought to be explained that it was due to mistake in the presentation of assets in the accounts without taking into account the sale or adjustment by way of depreciation. The asset side decrease in the Plant & Machinery in final audited balance sheet is compensated by increase in loss as per P&L account and had there been any unexplained investment in assets, then there should have been unaccounted liability also in the trial balance. In absence of any bogus liability in the trial balance, there could not be any unaccounted investment and otherwise the trial balance tallies with the total debit and credit of the plant & machinery which are otherwise reflected not only in their earlier year's balance sheet but also same has been sold during the year which has led to reduction in the final value of asset. Thus, the finding of the Assessing Officer for making the addition simply on the basis of difference in the trial balance sheet as on 09.01.2009 and final audited balance sheet as on 31.03.2009 is completely misplaced and the addition made on account of such a difference cannot be sustained on facts. Accordingly, the order of the ld. CIT(A) is confirmed and the grounds raised by the Revenue are dismissed."*

4. This Court is of the opinion that the grounds urged on behalf of the

Revenue are not substantial. The findings are entirely factual. In the circumstances and no substantial question of law arises.

5. The appeal is dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 15, 2019

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