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

\+ **ITA 467/2019**

THE PR. COMMISSIONER OF INCOME TAX -4 ... Appellant

Through: Mr.Ruchir Bhatia, Advocate.

versus

GE INDIA INDUSTRIAL PVT. LTD. ..... Respondent

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE REKHA PALLI

<u>O R D E R</u>

% **07.05.2019**

1. This appeal by the Revenue is directed against an order 23rd October, 2018 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No.3358/Del/2016 for the Assessment Year (AY) 2006-07.

2. The questions of law sought to be urged by the Revenue in the present appeal read as under:

> *"2.1 Whether on the facts and circumstances of the case and in law, the ITAT has erred in holding that no penalty under section 271(1)(c) of the Act can be levied in view of the decision of the Delhi High Court in the case of Nalwa Sons Investment Ltd. (327 ITR 543) without appreciating the fact that the ratio laid down in that case is not applicable to facts of present case?*

2.2 Whether on the facts and in the. circumstances of the case and in law, ITAT has erred in holding that no penalty under section 271(1)(c) can be levied without appreciating the fact that Assessee has not furnished accurate particulars of book profit taxable under section 115JB of the IT Act which resulted in enhancement of book profit of the assessee by RS.2.97 crores?"

3. The Commissioner Income Tax (Appeals) in the order dated 8th March, 2016 rightly noted that the issue whether the computation for the purpose of section 115 JD of the Act resulted in enhancement of book profit for the Assessee was a debateable issue and, therefore, this was not a case where penalty should have been levied under Section 271 (1) (c) of the Act.

4. Having heard the learned counsel for the Revenue and having examined the impugned orders of the CIT (A) as well as the ITAT, the Court is not persuaded to a different point of view. No substantial question of law arises.

5. The appeal is dismissed.

S.MURALIDHAR, J.

REKHA PALLI, J.

MAY 07, 2019

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