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

\+ **ITA 586/2019**

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-1, NEW DELHI ..... Appellant

Through: Ms.Lakshmi Gurung Senior Standing Counsel with Mr. Siddharth Gupta, Advocate.

versus

M/S MAURIA UDYOG LIMITED ..... Respondent

Through: Mr.Kislaya Parashar, Mrs.Mekhala Benny and Ms. Umang Luthra, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **23.07.2019**

1. This is an appeal by the Revenue against the order dated 29th November, 2018 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 6660/Del/2016 for the Assessment Year (AY) 2013-14.

2. The first question sought to be urged is whether the ITAT was right in deleting an addition of Rs.3.28 crores made by the Assessing Officer (AO) on the ground of unexplained cash transactions between the Assessee and the Amrapali Group?

3. The ITAT has in the impugned order analyzed the provisions of Section 69A of the Income Tax Act, 1961 ('the Act') and observed that one of the primary requirements for attracting that provisions is that "the Assessee is

found to be owner of any money, bullion, jewellery or other valuable article".

4. On facts, the ITAT had found that "the Assesee was never found to be in possession of any real money. The addition having been made only on the strength of some notings found in some file extracted from the computer of Sh. Rohtash, clearly establish that the provisions of section 69A of the Act do not apply." It was further found that on the date of receipt of the impugned amount, the same was returned to the Amrapali Group by the M/s Bihari Ji Group.

5. The determination by the ITAT is based on facts and there is nothing to indicate that it is perverse.

6. The second issue concerns the deletion of the addition of Rs.6 crores made by the AO on account of unexplained share application money under Section 68 of the Act. The CIT (A) accepted the explanation offered by the Assessee and came to the conclusion that the Assessee had satisfactorily explained to the AO that was in the normal course of business and nothing adverse was found so as to conclude that the source of money used for payment to the Assessee was unaccounted. This again is a factual determination and does not give rise to any substantial question of law.

7. The third issue is whether the ITAT was right in deleting the addition of Rs. 5 lakhs on account of disallowance of 'bogus' expenses?

8. The ITAT noted that the said addition was made on the premise that the Assessee had claimed rent payment to M/s Trinity Shipping and Allied Services Pvt. Ltd. which according to the AO was not properly explained. The CIT (A), however, deleted the addition after finding that no rent or hire charges were in fact paid to either of the above entities. Before the ITAT, the Revenue was unable to show anything to the contrary.

9. This too being a purely factual determination concurrently by the CIT (A) and the ITAT in favour of the Assessee, no substantial question of law arises.

10. The appeal is, therefore, dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 23, 2019
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