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

\+ **ITA 689/2019**

THE PR. COMMISSIONER OF INCOME TAX -7 ..... Appellant
Through: Mr. Ruchir Bhatia, Advocate

versus

OMNIA APPLIANCES PVT.LTD ..... Respondent
Through: Mrs. Mehkhala Benny, Mr. Kislaya Parashar and Ms. Umang Luthra, Advocates

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **24.07.2019**

1. The Revenue is in appeal against the order dated 10th December, 2018 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 3375/Del/2015 for Assessment Year (AY) 2010-11.

2. The Revenue seeks to assail the order of the ITAT on the ground that it held that the rejection of the books of account of the Assessee by the Assessing Officer (AO) was not proper and that the AO had not examined any comparable units before concluding that the Assessee has shown more than ordinary profits given that the consumption of stock did not match with the items produced by the Assessee.

3. The Assessee filed its return of income on 26th September, 2010 which was selected for scrutiny. The assessment order was passed by the AO on 14th March, 2013 determining the total income of Rs.4,03,25,140/-. The AO concluded that the Assessee had suppressed its production expenses by 8% and enhanced its profits just to claim deduction under Section 80IC of the Income Tax Act, 1961 ('the Act'). It was held that the books of account maintained by the Assessee could not be relied upon. The deduction under Section 80IC was disallowed and an estimate was made on the expenses incurred and then added to the income of the Assessee under Section 69C of the Act.

4. The Assessee's appeal was allowed by the Commissioner of Income Tax (Appeal) ['CIT(A)'] by an order dated 3rd March, 2015 *inter alia* on the ground that before invoking Section 145 of the Act, the AO had not given any opportunity to the Assessee and therefore, could not have drawn an adverse influence against it.

5. The ITAT has, by the impugned order, dismissed the Revenue's appeal. The ITAT observed on merits in para 11 of the impugned order as under:

> "The allegation of the learned assessing officer is that assessee has shown the higher profit in the books of accounts to claim the excess deduction under section 80 IC of the Income Tax Act. To show the higher profit the assessee either might have inflated the assets or have understated certain liabilities, in absence of this, the profitability cannot be shown at higher figure. The corresponding effect of the higher profit has not been identified by the learned assessing officer. No indication has also been drawn by the assessing officer that how the assessee has inflated its profit and correspondingly inflated its

> assets or deflated its liabilities. According to us, this is the simple accounting concept which should have been followed by the learned assessing officer before making the addition."

6. The reasoning of both the CIT (A) as well as the ITAT in disagreeing with the AO's rejection of the Assessee's books of accounts appears to be on sound legal basis consistent with the law. The said orders, therefore, do not call for interference. No substantial question of law arises.

7. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 24, 2019

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