102

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-465-2018
Date of Decision: 16.01.2020

THE PR. COMMISSIONER OF INCOME TAX-3, LUDHIANA

....APPELLANT

VERSUS

M/S INCITE HOMECARE P. LTD.

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Amrinder Singh, Advocate
for the appellant.

****

AJAY TEWARI, J (Oral)

1. The appeal has been filed against the order of the CIT (A) and Income Tax Appellate Tribunal (for short 'the Tribunal') whereby two additions made by the Assessing Officer (AO) were deleted. The issue relates to disallowance under Section 36 (1) (iii) of the Income Tax Act, 1961. Admittedly, the assessee has one bank account which consists of mixed funds. The AO held that the assessee was not able to satisfy that the advances which were made for the purchase of land and investment in construction of the godown were entitled to the benefit of Section 36 (1) (iii) of the Act. The findings were reversed by the Appellate Authorities (except that the CIT (A)) added sum of Rs. 4,80,000/- and deleted the balance additions). The CIT(A) gave a categoric finding that the funds used for purchase of land and construction were interest free funds and were not those which were obtained as loan from the bank. This finding on fact has been upheld by the Tribunal.

Learned counsel for the petitioner is not in a position to deny that the matter is squarely covered by the judgments of ***S.A. Builders Limited Versus CIT (Appeals) and another; 2007 (15) SCC 147*** and ***Bright Enterprises (P) Ltd. Versus Commissioner of Income Tax; 2016 (381) ITR 107***.

1. In view of the above, the first question is answered in negative.

2. As regard question No. 2, the argument is Rs.3,87,50,000/- which was received as share capital from two companies were accommodation entries. The ground taken by the AO was that those investors had sufficient funds yet they have been showing meagre profit from their business. The Appellate Authorities noticed that on the asking of the AO, not only all the financers but even the directors of the company were produced. Moreover, the returns of those assessees had been accepted by the revenue and held that in these circumstances the share money investment could not be deemed to have been a paper transaction or an accommodation entry.

Therefore, we find no reason to give a different view and both the questions are answered in negative.

Consequently, the appeal is dismissed.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

16th January, 2020
shabha

Whether speaking/ reasoned : Yes / No

Whether reportable : Yes / No