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

\+ ITA 427/2022

PR. COMMISSIONER OF INCOME TAX DELHI- 7 ..... Appellant

Through: Mr. Zoheb Hossain, Sr. SC with Mr. Sanjeev Menon, Jr. SC..

versus

M/S PRAYAG POLYTECH PVT. LTD. ..... Respondent

Through: Mr. Ved Jain and Mr. Nischay Kantoor, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **24.01.2024**

1. The instant appeal by the Department seeks to question the judgment rendered by the Income Tax Appellate Tribunal ["**ITAT**"] on 07 November 2019. The appeal is sought to be admitted on the following proposed questions of law:

> "A. Whether, on the facts and circumstances of the case and in law, the ITAT has erred in deleting the disallowance of the excess expenditure of Rs. 3,73,50,300/-, by giving a perverse finding on fact that the addition was ad-hoc, without giving any credence to the fact that except for the ledger account, the assessee did not produce any documentary evidence in support of the expenses, even though specifically asked to do so by the Assessing Officer, or before the Commissioner of Income Tax (Appeals)?
>
> B. Whether, in the facts and circumstances of the case and in law, the ITAT has erred in deleting the addition of Rs. 1,06,20,125/- made under Section 68 of the Income Tax Act on account of unexplained advances from customers, ignoring the fact that the assessee had not furnished any addresses of the customers from whom advances were claimed to have been taken, nor any such evidences produced during the appellate proceedings before CIT(A),

and as such the assesseefailed to discharge its onus to prove the identity and creditworthinness of the alleged customers and genuineness of the claimed advances?"

2. We note that in so far as the addition of Rs. 3,73,50,300/- is concerned, the ITAT has come to record the following conclusions:

> "8. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the books of accounts produced by the assessee during the course of assessment proceeding were never doubted and were not rejected. The addition is only on the basis of presumption and assumption that decrease in sales amounts to decrease in expenses. The ledger accounts were very much produced before the Assessing Officer and the same was before the CIT(A). Merely on the basis of conjecture, the ad-hoc addition cannot be made without any tangible reason to do so. Therefore, Ground no.2 is allowed."

3. Similarly, in respect of advances from customers, it was found that the documents which were presented by the assessee could not be doubted. It was also noted that the ledger accounts for three Financial Years ["**FYs**"] i.e. 2014-15, 2015-16 and 2016-17 were also submitted in order to establish and prove that these were regular customers from whom advances have been received in the past as well.

4. Taking note of the aforesaid, the ITAT held as follows:

> "9. As regard Ground No.3, relating addition of Rs.1,06,20,125/ - on account of advances from the customers, the Ld. AR submitted that the assessee duly filed the details of advances received from customers alongwith the details of current liabilities. The documents were not doubted. The Ld. AR further submitted that these advances have been cleared in the subsequent years. The sales invoices have been raised in the subsequent years and copies of ledger accounts for three Financial Years i.e. 2014-15, 2015-16 and 2016-17 were submitted before the authorities and the assessee demonstrated that these are regular advances. The Ld. AR submitted that these parties are regular customers and the assessee has supplied the goods to those parties in the normal course of business and these advances have been adjusted against such supply of goods in the subsequent year. Thus, there cannot be addition holding the same advances as unexplained. The Ld. AR relied upon the decision of Tribunal in case of ACIT vs. Montage Enterprises Pvt. Ltd. (ITA No.4014/ Del/ 2011 dated 14.01.2019).

The Ld. AR further submitted that thisaddition made is on the basis of arbitrariness and by indulging into surmises without providing any cogent reasons."

5. In view of the aforesaid, we find that the appeal raises no substantial questions of law. Consequently, we see no reason to interfere with the impugned order.

6. The appeal stands dismissed on the aforesaid terms.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

JANUARY 24, 2024/p