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

+ ITA 334/2024

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2

.....Appellant

Through: Mr. Sanjay Kumar, Ms. Easha,
Adv.

versus

M/S SURUCHI FOODS PVT. LTD.

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

10.07.2024

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1. The Principal Commissioner seeks to impugn the order of the Income Tax Appellate Tribunal [**“Tribunal”**] dated 22 December 2023 and has proposed the following questions of law for our consideration:-

“A. Whether on the facts and circumstances of the case and in law, Ld. ITAT is correct in not deciding the appeal on merit and ignoring the fact that during the appellate proceedings, the assessee itself in an affidavit filed by him stated that registered office of the assessee company was situated at C-1/35, Safdarjung Enclave, New Delhi and the said premise continues to be the registered office of the company and also the address is same as appeared in the return of income filed by the assessee company for A.Y. 2006-07?

B. Whether on the facts and circumstances of the case and in law, Ld. ITAT is correct in not deciding the appeal on merits since during the A.Y. 2006-07, M/s Suruchi Foods Pvt. Ltd. has taken entry of bogus expense amounting to Rs.2 Crore from M/s Tuticorin Trexim Pvt. Ltd., a company controlled by Sh. Praveen Kumar Agarwal, one of the known entry operators of Kolkata after



which the money was refunded to the assessee company after deducting commission for providing bogus billing?

C. Whether on the facts and circumstances of the case and in law, the Ld. ITAT is correct in not deciding the appeal of the Revenue on merits of addition and it is prayed before Hon'ble Court that ITAT may be directed to decide the appeal of Revenue on merits of the case?"

2. The principal issue pertains to whether the notice under Section 148 of the Income Tax Act, 1961 [**"Act"**] had been duly served upon the respondent-assessee. We note that while dealing with the aforesaid issue, the Tribunal has in Para 6 of the order impugned before us held as follows:-

"6. Having considered rival submissions, we find that, though, earlier registered office of the assessee was at C-1/35, Safdarjung Enclave, New Delhi, however, it was subsequently shifted to AB-16, Community Centre, Safdarjung Enclave, New Delhi. It is observed from the material on record that after change of address of the registered office, assessee has been filing its return of income from the assessment year 2010-11 onwards in the new address. In fact, all official communications by the Assessing Officer is made with the assessee in the new address. Even, the new address has been updated in the PAN database. Thus, it is a fact on record that new address of the assessee was within the knowledge of the Assessing Officer. Whereas, section 148 notice has been issued to the assessee in the old address and since the assessee has shifted from the old address since long, it was not found there and service was effected through affixture and assessment proceedings was completed ex parte under Section 144 of the Act."

3. As would be manifest from the above, the address of AB-16, Community Centre, Safdarjung Enclave, New Delhi was one which stood reflected in the returns of income which had been filed right from Assessment Year [**"AY"**] 2010-11. The Tribunal on facts has also found that the updated address was duly recorded in the PAN data base.



4. In view of the aforesaid, we find that the appeal fails to raise any substantial question of law. It shall consequently stand dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 10, 2024/neha