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

+ ITA 531/2018

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)-2

.....Appellant

Through: Mr. Apoorv Agarwal, JSC with
Mr. Gaurav Singh, Mr.
Bhanukaran Singh Jodha and
Ms. Muskaan Goel, Advs.

versus

MICROMAX INFORMATICS LTD.Respondent

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

44

+ ITA 534/2018

PR. COMMISSIONER OF INCOME TAX
(CENTRAL) – 2

.....Appellant

Through: Mr. Apoorv Agarwal, JSC with
Mr. Gaurav Singh, Mr.
Bhanukaran Singh Jodha and
Ms. Muskaan Goel, Advs.

versus

MICROMAX INFORMATICS LTD.Respondent

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

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PR. COMMISSIONER OF INCOME TAX
(CENTRAL)- 2

.....Appellant

Through: Mr. Apoorv Agarwal, JSC with
Mr. Gaurav Singh, Mr.
Bhanukaran Singh Jodha and
Ms. Muskaan Goel, Advs.

versus

MICROMAX INFORMATICS LTD.Respondent

Through: Mr. Ved Jain, Mr. Nischay



Kantoor and Ms. Soniya, Advs.

47

+ ITA 541/2018

PR. COMMISSIONER OF INCOME TAX
(CENTRAL)- 2

.....Appellant

Through: Mr. Apoorv Agarwal, JSC with
Mr. Gaurav Singh, Mr.
Bhanukaran Singh Jodha and
Ms. Muskaan Goel, Advs.

versus

MICROMAX INFORMATICS LTD.Respondent

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

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

07.02.2025

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1. Learned counsel for parties are *ad idem* that the solitary issue which stands raised in these appeals pertains to the adoption of gross profit rate and which constituted question 'd' in **Pr. Commissioner of Income Tax vs. M/s Micromax Informatics Ltd.** [ITA 797/2015 decided on 7 February 2025]

2. While dealing with that aspect, we have today, while dismissing the aforesaid appeal, held as follows:-

“7. That only leaves us to examine the issue arising out of the adoption of the gross profit rate. That addition itself was firstly based on the rejection of the books of account of the respondent/assessee. The Tribunal has, in this respect, found that there was clearly no justification to reject the books of account since the assessee had been found to be maintaining proper books coupled with the special audit to which it had been subjected to. This becomes apparent from a reading of para 23.6 and which is extracted herein below:-

“23.6. Our findings:

On consideration of rival contentions we are of the



considered view that the rejection of books of accounts is bad in law for the following reasons:

The assessee has maintained regular books of accounts and these have been audited by the tax auditors as well as by the special auditors appointed by the AO. Both these auditors have certified that the assessee was maintaining proper books of accounts. The AO seems to have based his opinion on the report of KPMG India. This report was a due diligence report obtained by the prospective investors. Such due diligence reports cannot lead to formation of an opinion that proper books of accounts have not been kept by the assessee. The assessee also maintained quantitative details of inventory. Similarly on the issue of swap units while disposing of ground nos. 8, 9 and 10, we have dealt with the issue and from our observations it is clear that this cannot be a basis for rejection of books of accounts. Addition on account of difference in credit notes cannot also form a ground for rejection of books of accounts for the reason that we have come to a conclusion that the addition itself is arbitrary and deleted the same. In fact the AO relied on these very books of accounts and to make huge additions during the course of assessment. On the one hand the AO seeks to rely on the books of accounts and on the other hand the AO rejects the books of accounts for estimated profits on adhoc basis. This in our view is not permissible.

The rejection of the books of accounts cannot be done in a light hearted manner. Section 44AA of the Income Tax Act mandates that every person carrying on business or profession shall keep and maintain such books of accounts are maintained in such a manner which makes it difficult for the Assessing Officer to compute its total income then only the books of accounts can be rejected. This is not the case here. Even if, there are certain discrepancies or errors which are not so crucial so as to disable the Assessing Officer to compute the total income of the appellant, then the books of account cannot be rejected but such discrepancies can be taken into consideration while computing the total income.

Further, the rejection of books of accounts is not justified when mistakes in the books of accounts are of general or technical nature. The remarks given by the Assessing Officer in the appellant's case are neither sufficient for rejecting the duly audited books of accounts not the Assessing Officer has shown that how these remarks would have a bearing in giving a finding that true income cannot be computed on the basis of books of accounts



maintained by the appellant on day to day basis in regular course of business.

As we have held that the rejection of books of accounts is bad in law the question of enhancement of gross profit on estimate basis does not arise. The AO is directed to adopt the profits as declared by the assessee in its books of accounts. In view of the above, we delete this addition and this ground of appeal of the assessee is allowed.”

8. The Tribunal thus found that not only had the assessee maintained the books of account in terms as mandated, the same had also been subjected to independent audit. Of greater import is the finding of the Tribunal that the AO itself had relied upon those accounts for making various additions. The view thus taken clearly merits no interference.

9. Consequently and for all the aforesaid reasons, we find no merit in the appeal. The same shall stand dismissed. The questions of law are answered in the negative and against the appellant/Revenue.”

3. Following the above, we find no justification to interfere with view as expressed by the Income Tax Appellate Tribunal. The appeals fail and shall stand dismissed.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.
FEBRUARY 07, 2025/nd