



16

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA NO.513/2006

Commissioner of Income TaxAppellant
Through Ms.Prem Lata Bansal

versus

M/s Ilac Investment Pvt. Ltd. Respondent
Through Mr.Rakesh Gupta

CORAM:

HON'BLE MR. JUSTICE T.S.THAKUR

HON'BLE MR. JUSTICE SHIV NARAYAN DHINGRA

ORDER

%

17.04.2006

The respondent assessee had for the assessment year 1989-90 disclosed in its return sum of Rs.4,75,000/- received as share application money. The Assessing Officer added the said amount to the taxable income of the assessee under Section 68 of the Income Tax Act, 1961, on the ground that the identity of the subscribers had not been established. In an appeal filed by the assessee against the said order, the Commissioner of Income Tax (A) held that the assessee had satisfactorily established the identity of the share subscribers. The view taken with the Assessing Officer was, accordingly, reversed. The Income Tax Appellate Tribunal has in a further appeal filed by the revenue before it placed reliance upon the decision of this Court in *Antarctica Investment Pvt. Ltd.* 262

ITR 493 and CIT Versus Sofia Finance Ltd. 205 ITR 98 hold that the respond



assessee had discharged the onus by reference to the material produced to establish the identity of the subscribers. The Tribunal has observed:-

"On going through the various orders to which reference has been made by the learned counsel for the assessee, it is found that on similar facts the additions made by the AO have been deleted. So far as the present case is concerned, the learned CIT (A) has considered the facts and circumstances in detail and has recorded findings of fact. He has also placed reliance on the decision in the case of CIT Vs. Sophia Finance Ltd. 205 ITR 98. The learned CIT (A) has also considered the provisions of section 72, 75 and 77 of the Companies Act and has also taken into consideration the details furnished by the assessee before the AO including the certificate of incorporation of subscribers, copies of their bank statement and copies of their assessment orders as well as the copies of their audited accounts. The findings recorded by the learned CIT (A) are based on proper appraisal of the material and we do not find any scope to interfere with the same. Consequently, order of learned CIT (A) is upheld."

In the light of the above concurrent findings of the fact recorded by the Commissioner and the Tribunal, we see no substantial question of law arising for our consideration in this appeal which fails and is hereby dismissed.

T.S. THAKUR, J

SHIV NARAYAN DHINGRA, J

APRIL 17, 2006

`ns'