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% 12.09.2011

Present: Mr. R.K. Gupta, Advocate for the Appellant/Assessee.
Mr. Kamal Sawhney, Senior Standing Counsel with Mr. Amit Srivastava, Advocate for the Respondent/Revenue.

+ ITA No.1372/2010

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This appeal pertains to the assessment year 2005-06. While passing the assessment order, the Assessing Officer made additions of ₹50 lac under Section 68 of the Income Tax Act, 1961 which was towards investment in the Share Capital of the assessee company run by Mr. Ashim Nayyar an NRI. According to the Assessing Officer, the assessee had failed to establish the identity of the applicant as well as genuineness of the transaction in question. It was because of the reasons that in spite of the asking of the Assessing Officer, the assessee failed to produce Mr. Ashim Nayyar personally before him. The assessee filed an appeal before the CIT(A). In this appeal, the assessee furnished some additional evidence on which remand report was sought by CIT(A) contrary to the Assessing Officer and thereafter the appeal was allowed deleting the said additions. The Revenue preferred an appeal against the said order of CIT(A) before the ITAT. The ITAT, vide the impugned order, remanded the case back to the Assessing Officer for further inquiry and *de novo* adjudication. After going through the order of the Tribunal, we find that various issues have been discussed regarding aforesaid transaction in question by the ITAT and the ITAT has come to the conclusion that the matter was not considered appropriately by the Assessing Officer further proper inquiries were needed and that the Assessing Officer remained selectively silent. The assessee thereafter filed an application under Section 254(2) of the Act which was dismissed vide order dated 20th August, 2010



justifying its order of remanding the case back to the Assessing Officer for fresh inquiry. As regards the contention of the assessee that the original drafts from Dubai to India on the basis of which the money was invested in the share by Mr. Ashim Nayyar was not the only ground which prompted the ITAT to remand the case back to the Assessing Officer.

We do not find any question of law in this appeal. Dismissed.

A handwritten signature in black ink, appearing to read 'A.K. Sikri'.

A.K. SIKRI, J.

A handwritten signature in black ink, appearing to read 'Siddharth Mridul'.

SIDDHARTH MRIDUL, J.

SEPTEMBER 12, 2011

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