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

+ **ITA 250/2015 & C.M.Nos.6896-97/2015**

+ **ITA 251/2015 & C.M.No.6898/2015**

COMMISSIONER OF INCOME TAX-IX Appellant

Through: Mr.Rohit Madan, Mr.Ruchir Bhatia
and Mr.Akash Vajpai, Advs.

versus

DAPINDER PAUL SINGH Respondent

Through: Ms.Poonam Ahuja and Mr.Rohit
Kumar Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **22.04.2015**

1. The Revenue is aggrieved by the order of Income Tax Appellate Tribunal (ITAT) dated 15.03.2013 in ITA Nos.1521/Del/2010 and 4383/Del/2011. It urges that the cancellation of Rs.28,76,961/-, added by the Assessing Officer (AO) under Section 36(i)(iii) of the Income Tax Act, 1961 is erroneous. The assessee is a proprietor of one M/s Peninsular Creations which engages itself in the business of 100% export of laminated sheets (sunmica). He is also a Director of M/s Artmica Laminates Pvt. Ltd. The AO found for Assessment Year (AY) 2006-07 the assessee had advanced interest free loan to Artmica Laminates and the proprietorship concern had claimed substantial bank interest. This was disallowed and a sum of Rs.28,76,961/- was determined on account of interest forgone. In the opinion of the AO, the advance was out of the borrowed funds. The CIT



(Appeals) set aside the order of the AO. It also said that the assessee's claim for commercial expediency of the proprietorship concern of the assessee was correct and allowed the claim with respect to interest free loan from the borrower. The CIT (Appeals) who relied upon the decision of the Supreme Court in *S.A.Builders Ltd. vs. Commissioner of Income Tax (Appeals), Chandigarh and Anr.* 2007 (1) SCC 781 to hold that in every case interest on borrowed fund need not be added back to the assessee. In fact, if the assessee advances loan to a sister concern, the facts and circumstances of the case have to be seen. It was also held that the monies can be advanced to a sister concern for commercial expediency in several circumstances and that where the holding company has a deep interest in the subsidiary and advances borrowed money, it would be ordinarily entitled to deduction of interest on its borrowed loans. The ITAT affirmed the decision of the CIT(Appeals).

2. We have considered the reasoning of the ITAT and find that it is supported by the judgment of the Supreme Court in *S.A. Builders* (supra). Furthermore, the said decision has been followed subsequently in the *CIT vs. Tulip Star Hotels Limited* (ITA No.43/2009 decided on 18.08.2011) by another Division Bench of this Court. Following the said decisions, no substantial question of law arises. The appeal is, therefore, dismissed.


S. RAVINDRA BHAT, J


R.K.GAUBA, J

APRIL 22, 2015/mr