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

10-12

\+ **ITA 365/2015**

PR. COMMISSIONER OF INCOME TAX-6 ..... Appellant
Through: Ms.Suruchi Aggarwal, Senior Standing counsel with Ms. Lakshami Gurung, Junior Standing counsel.

versus

M/S NORTHERN STRIPS LTD. ..... Respondent
Through: Mr. Ved Jain, Advocate with Mr. Pranjal Srivastava, Advocate.

With

ITA 417/2015

PR. COMMISSIONER OF INCOME TAX-6 ..... Appellant
Through: Ms.Suruchi Aggarwal, Senior Standing counsel with Ms. Lakshami Gurung, Junior Standing counsel.

versus

M/S NORTHERN STRIPS LTD. ..... Respondent
Through: Mr. Ved Jain, Advocate with Mr. Pranjal Srivastava, Advocate.

And

ITA 522/2015

PR. COMMISSIONER OF INCOME TAX-6 ..... Appellant
Through: Ms.Suruchi Aggarwal, Senior Standing counsel with Ms. Lakshami Gurung, Junior Standing counsel.

versus

M/S NORTHERN STRIPS LTD. ..... Respondent

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Through: Mr. Ved Jain, Advocate with
Mr. Pranjal Srivastava, Advocate.

CORAM:
HON'BLE DR. JUSTICE S.MURALIDHAR
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 21.08.2015

1. These three appeals by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') are directed against the order dated 23rd September 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 1269/Del/2013 for the Assessment Years ('AYs') 2006-07, 2007-08, 2008-09.

2. A search and seizure action under Section 132 of the Act was carried out in the M/s Swastik Pipes group on 28th August 2008. In this search operation, the premises of the Respondent Assessee M/s Northern Strips Ltd. were also searched. Subsequent to the notices issued to it under Section 153A (1) of the Act, the Assessee filed returns of income identical to the ones already filed for the AYs.

3. The information available with the intelligence wing preceding the search was that there were certain high volume cash transactions in the bank account of one Mr. Ravinder Yadav, maintained by him in the name of M/s

Ravinder & Co. There were debits and the credits to the tune of Rs. 677.28 lakhs and Rs. 677.14 lakhs respectively for the financial year 2006-07. In response to the summons issued to him under Section 131 of the Act, the said Mr. Ravinder Yadav accepted to have charged minor commission for issuing demand drafts (DDs) and pay orders (POs). He named the Assessee as one of the beneficiaries for whom benefit he was depositing and getting the DDs and POs. It was concluded by the Assessing Officer ('AO') that Mr. Ravinder Yadav had not done any genuine business and merely provided accommodation entries to the Assessee.

4. As far as the Assessee was concerned the AO noted that for the AY 2006-07, an amount of Rs.1,17,12,111 was received by the Assessee from the bank account of Mr. Ravinder Yadav. In response to the a query raised by the AO as regards the genuineness of the sales purportedly made by the Assessee, a reply was filed by it on 10th December 2010, *inter alia,* stating that as a policy matter the Assessee did not sell goods against cash and insisted that the customers should make payments through banking channels only. It was stated that it was possible that some of the customers might have arranged DDs from Mr. Yadav, but as far as the Assessee was concerned "they have sold the goods to the parties who have made payment

through banking channels out of the stock in trade duly recorded in the books of accounts at similar market rates without regard to the fact that the purchaser have made payment by Cheques, Bank Draft, Demand Draft, Manger's cheque etc." The Assessee also filed the details of the purchases made against C Form from Jindal Polymers Ltd. as well as the goods covered under VAT charged by it. The copies of the sales tax returns were also filed to substantiate that details of the sales made were duly furnished to the Sales Tax Department.

5. The AO, however, was of the view that the Assessee had been unable to furnish proof to establish the physical sales of the goods to the parties concerned as no details regarding the transportation, delivery challans were filed. It was observed that "crores of rupees from several parties were routed through the bank accounts of Shri Ravinder Yadav to reach the assessee and the other concerns of the family members of the promoters of the assessee company." It was on that basis the entire receipts were held to have been against 'non-existent sales' and added to the taxable income of the Assessee.

6. In the appeal filed by the Assessee, the CIT (A) noted that all the receipts by the Assessee were duly recorded in its books of account as sales and

offered to tax as part of the sales already disclosed in the audited profit and loss account. The sales were duly vouched and details were available in the stock records. The CIT (A) accordingly deleted the addition. Thereafter the Revenue went in appeal before the ITAT.

7. In the impugned order, the ITAT observed that the determination by the CIT (A) was purely factual and "nothing has been placed before us to controvert the above facts". The ITAT further observed that "The fact remains that genuineness of the transaction stands un-assailed on record. The drafts/pay orders received against sales made stands consistently accepted by the assessee."

8. In the present appeal the point urged on behalf of the Revenue is that what was added in the hands of Mr. Ravinder Yadav was commission for issuing the DDs and POs and therefore the CIT (A) was not right in deleting the additions made in the hands of the Assessee only on the ground that in Ravinder Yadav's hand they have already been taxed. The further contention is that all the sales shown in the books were in fact bogus sales.

9. The CIT (A) in its order pointed out that as far as the Assessee is concerned it has in fact accounted all the receipts from the sales made to the

different parties by producing all the relevant records. In fact the Revenue was unable to produce any material to counter the above facts and it was in those circumstances, the CIT (A) was persuaded to delete the addition. If in fact the genuineness of the sales have been proved by the Assessee and the amount received from such sales offered to tax then the addition made by the AO was in the facts and circumstances of the case not justified.

10. The Court is not persuaded to hold that there is any perversity in the above factual findings of the CIT (A) and the ITAT warranting interference. No substantial question of law arises.

11. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

AUGUST 21, 2015
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