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

Date of Decision: 13.11.2017

+ ITA 967/2017

THE PR. COMMISSIONER OF INCOME TAX-CENTRAL-1
..... Appellant

versus

SUNDEEP GUPTA Respondent

+ ITA 968/2017

THE PR. COMMISSIONER OF INCOME TAX-CENTRAL-1
..... Appellant

versus

SAMEER GUPTA Respondent

Present: Mr. Ruchir Bhatia with Mr. Puneet Rai &
Mr. Gaurav Khetarpal, Advs. for appellant.
Mr. Ved Jain with Ms. Rano Jain, Mr. Pranjal
Srivastava & Ms. Devina Sharma, Advs. for
respondent.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

S. RAVINDRA BHAT, J.(ORAL)

1. The question of law urged in these two appeals is with respect to the correctness of the ITAT's order, holding that the penalty imposed under Section 271AAA of the Income Tax Act, 1961



(hereafter referred to as ‘the Act’) was on an incorrect appreciation of law.

2. For A.Y. 2010-11, search assessment was completed under Section 153A. On the basis of additions made, the AO proceeded to impose penalty upon two Directors under Section 271AAA of the Act. The aggrieved assesseees and parties preferred appeals; the Appellate Commissioner reversed the findings and deleted the penalties. The ITAT noticed that the functional jurisdiction *inter alia* for imposition of penalty under Section 271AAA of the Act is the admission in the course of the statement made during the search proceedings and that such a fact did not exist in the circumstances of the case. Therefore, based upon its own previous order in *Addl. Commissioner of Income Tax v. Emirates Technologies Pvt. Ltd.* (ITA No.476/Del/2014) deleted the penalty. We notice that the view in *Emirates Technologies Pvt. Ltd.* (supra) was endorsed in the Revenue’s appeal (*CIT v. M/s Emirates Technologies Pvt. Ltd.*, ITA No.400/2017 decided on 18.07.2017).

3. In this view of the matter, no substantial question of law arises in these appeals; they are accordingly dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 13, 2017/kks