



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

INCOME TAX APPEAL No. 978/2018Reserved on : 8th October, 2018Date of decision: 20th December, 2018

THE PR COMMISSIONER OF INCOME TAX-6 Appellant
Through: Mr. Ruchir Bhatia, Advocate.

versus

NUCLEUS STEEL PRIVATE LIMITED Respondent
Through: Nemo.

CORAM:**HON'BLE MR. JUSTICE SANJIV KHANNA****HON'BLE MR. JUSTICE CHANDER SHEKHAR****SANJIV KHANNA, J.:**

We had heard arguments on the point of admission to examine whether the expression “genuineness” in the context of the present case has been examined and decided by way of judicial pronouncements. The question of “genuineness” arises in the present case in somewhat a peculiar situation for the Revenue does not dispute payment of Rs.67.50 crores to the respondent-assessee by M/s Unitech Limited on the ground of identity, creditworthiness and even transfer of money. “Genuineness” is disputed for the reason that the explanation given by the respondent-assessee for receipt of the amount, i.e. agreement to sell for land at Taluka Khanpur, District Raigad, State of Maharashtra was rejected for a number of reasons, including sham and bogus backdated agreement to sell, failure to produce the executants, difference between the value indicated and circle rate of the



land and the factum that half the value of the alleged transaction was paid in advance.

2. Question would arise whether an addition under Section 68 of the Income Tax Act, 1961 would be justified and as per the statute, even if the nature and character of the transaction propounded by the assessee is discarded and disbelieved, *albeit* the transaction otherwise in the form of transfer of money is found to be correct and not doubted. In view of lack of any direct case law on the subject, we feel that notice should be issued to examine and decide this controversy.

3. Issue notice returnable on 19th February, 2019.

(SANJIV KHANNA)
JUDGE

(CHANDER SHEKHAR)
JUDGE

DECEMBER 20th, 2018
VKR