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

+ **ITA 117/2023 and CM APPLs. 9624-25/2023**

PR. COMMISSIONER OF INCOME TAX ..... Appellant

Through: Mr Zoheb Hossain, Sr. Standing  
Counsel.

versus

M/S. SSS LOHA MARKETING PRIVATE LIMITED..... Respondent

Through: Mr Anshul Mittal, Advocate.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MS JUSTICE TARA VITASTA GANJU**

**ORDER**

**28.02.2023**

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**[Physical Hearing/Hybrid Hearing (as per request)]**

1. This appeal concerns Assessment Year (AY) 2010-2011.
2. The appellant/revenue has assailed the order of the Income Tax Appellate Tribunal, [in short, "Tribunal"] dated 10.08.2021. The record shows that in a survey action, the Director of the respondent/assessee made a statement that sales to the extent of Rs.4,05,53,574/- are mere book entries. Accordingly, the Assessing Officer (AO) made addition under the head 'income from other sources'.
3. Interestingly, the provisions of Section 68 of the Income Tax Act, 1961 [in short, "the Act"] were not invoked and the addition was not made under the head 'income from business and profession'.
4. In an appeal preferred by the respondent/assessee, the addition was confined to the purported commission income that it had earned. A rate of 0.25 % was applied to the aforementioned bogus entries concerning sales.

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5. The CIT(A) broadly concluded that since both sales and purchase were fake, they squared off each other. This view has been sustained by the Tribunal.
6. The matter requires further examination.
7. Accordingly, issue notice.
- 7.1 Mr Anshul Mittal accepts notice on behalf of the respondent/assessee.
8. List the appeal on 23.08.2023.
9. Counsel for the parties will file their written submissions, not exceeding three pages each, at least five days before the next date of hearing.
10. Mr Zoheb Hossain will furnish copies of the case papers to Mr Mittal within next three weeks *via* e-mail.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**FEBRUARY 28, 2023 / tr**

[Click here to check corrigendum, if any](#)