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

+ **ITA 139/2023 and CM APPLs.11366-67/2023**

PRINCIPAL COMMISSIONER OF INCOME TAX-4, DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr. Standing
Counsel.

versus

MAGNUM STEELS LTD

..... Respondent

Through: None.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

10.03.2023

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

1. This appeal concerns Assessment Year (AY) 2010-2011.
2. The record shows that the Assessing Officer (AO) made the following disallowances, *via* an order dated 30.12.2011 issued under Section 143(2) of the Income Tax Act, 1961 [in short, "the Act"]:
 - (i) Disallowance made under Section 14A of the Act- Rs.3,27,697/-;
 - (ii) Addition on account of undisclosed sales- Rs.8,71,32,000/-;
 - (iii) Addition towards short term capital gain- Rs.6,00,000/-.
3. On the other hand, the Commissioner of Income Tax (Appeals) [CIT(A)], *via* order dated 20.06.2014, while sustaining the disallowance made under Section 14A of the Act, reduced the addition with regard to undisclosed sales to Rs.3,88,50,000/-. Insofar as addition on account of short term capital gain was concerned, the same was deleted.



4. The Income Tax Appellate Tribunal [in short, “Tribunal”] restricted the disallowance under Section 14A of the Act to Rs.1,00,000/- and deleted the addition made on account of undisclosed sales.
5. It appears that the Tribunal has not dealt with the deletion of capital gains made by the CIT(A).
6. We may note that the CIT(A) restricted the addition with regard to undisclosed sales to Rs.3,88,50,000/-, on account of the fact that the remaining part related to other AYs [See para 18.3 at pages 131-132 of the CITA’s order].
7. Mr Abhishek Maratha, senior standing counsel, who appears on behalf of the appellant/revenue, says that insofar as the appellant/revenue is concerned, the approach adopted by the CIT(A) was the correct approach.
- 7.1 Furthermore, Mr Maratha says that the question of law proposed by the appellant/revenue does not relate to the deletion of short term capital gain.
8. We may note that the record does reveal that the AO did not reject books of accounts of the respondent/assessee.
9. However, the matter needs further examination.
10. We inclined to issue notice to the respondent/assessee *via* all modes, including e-mail.
11. List the appeal on 18.08.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 10, 2023 / tr

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