



\$~84

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **ITA 174/2023 & CM Appl.13856/2023**  
**THE PR. COMMISSIONER OF INCOME TAX -CENTRAL -1**

..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing  
Counsel with Ms Priya Sarkar, Jr.  
Standing Counsel.

versus

**SHAHI EXPORTS PVT. LTD..** .... Respondent

Through: None.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

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

**ORDER**

**23.03.2023**

%

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

1. Mr Ruchir Bhatia, learned senior standing counsel who appears on behalf of the appellant/revenue, says that this appeal is confined to Assessment Year (AY) 2010-11.

2. To be noted, two the assessment orders of even date, i.e., 30.03.2015, under Section 153A read with Section 153C & 143(3) of the Income Tax Act, 1961 [in short, "the Act"] were passed *vis-à-vis* two AYs, i.e., 2008-09 and 2010-11.

3. The record shows that the search action under Section 132 of the Act was carried out against the respondent/assessee, i.e., Shahi Exports Pvt. Ltd. (SEPL) on 16.01.2013.

3.1 Record also discloses that, prior to the search action carried out against the respondent/assessee, i.e., SEPL, another entity going by the name

ITA 174/2023

page 1 of 3



Sarla Fabrics Pvt. Ltd. amalgamated with the respondent/assessee, i.e., SEPL, which received the imprimatur of this court *vide* judgement dated 25.10.2010, *albeit* with effect from 31.03.2010.

4. Mr Bhatia concedes that no incriminating material was found in the search action *qua* the respondent/assessee, i.e., SEPL.

4.1 It is Mr Bhatia's contention that although no incriminating material was found, the completed assessment *vis-à-vis* the AY in issue, made against the respondent/assessee, i.e., SEPL, *via* the assessment order dated 30.03.2013, would continue to obtain. Therefore, it is Mr Bhatia's contention that the view taken by the Income Tax Appellate Tribunal [in short, "the Tribunal"] *via* the impugned order dated 24.03.2021 is not sustainable.

5. We may note that the record also discloses that the Principal Commissioner of Income Tax [in short, "PCIT"] had passed an order under Section 263 of the Act, whereby the assessment order dated 30.03.2015 was set aside, *inter alia*, on the ground that after the amalgamation of Sarla Fabrics Pvt. Ltd. with the respondent/assessee, i.e., SEPL, whatever additions had been made in the hands of Sarla Fabrics Pvt. Ltd, were to be assessed in the hands of the respondent/assessee, i.e., SEPL.

6. The order under Section 263 was passed by the PCIT on 21.03.2017. It is this order which was set aside by the Tribunal.

7. Issue notice to the respondent/assessee, i.e., SEPL *via* all modes, including email.

8. List the matter on 28.08.2023.

9. In the meanwhile, counsel for the appellant/revenue will file written

ITA 174/2023

page 2 of 3



submissions not exceeding three pages, at least five days before the next date of hearing.

10. Registry will dispatch notice to the respondent/assessee, i.e., SEPL accompanied with a copy of the order passed today. In case the notice is served to the respondent/assessee, i.e., SEPL in time, it shall also file written submissions in the matter as directed above.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**MARCH 23, 2023/r**

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

*ITA 174/2023*

*page 3 of 3*