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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 178/2023 & CM Appls.14126-27/23**
PR. COMMISSIONER OF INCOME TAX -CENTRAL LUDHIANA

..... Appellant

Through: Mr Zoheb Hossain, Sr. Standing
Counsel with Mr Sanjeev Menon, Jr.
Standing Counsel.

versus

M/S. GARG ACRYLICS LTD Respondent

Through: None.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

% **24.03.2023**

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

CM Appl.14128/2023

1. Allowed, subject to just exceptions.

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2. This appeal concerns Assessment Year (AY) 2011-12.

3. This appeal is directed against the order dated 27.10.2020 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].

4. Mr Zoheb Hossain, senior standing counsel, who appears on behalf of the appellant/revenue, says that the only ground which the appellant/revenue seeks to agitate in the appeal concerns the deletion of addition(s) amounting to Rs.20,24,39,341/- made by the Assessing Officer (AO) on account of bogus purchases and sales.

5. The record seems to suggest that the respondent/assessee had engaged

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in transactions with SEL Manufacturing Company Ltd. [in short, “SEL”]. A search action was conducted under Section 132 of the Income Tax Act, 1961 [in short, “the Act”] against SEL.

6. It is in this context that addition was made *vis-à-vis* the respondent/assessee in relation to bogus transactions allegedly entered into between respondent/assessee and SEL.

7. The Commissioner of Income Tax Appeals [in short, “CIT(A)”] has ruled against the appellant/revenue, which has been sustained by the Tribunal.

8. The Tribunal’s view is captured in paragraph 35 of the impugned order, which reads as follows:

“35. So far as the second issue, i.e., the order of the CIT(A) in deleting the addition of Rs.20,24,39,341/- made on account of income from undisclosed source for assessment year 2011 -12 is concerned, we find the same was made by the AO on the basis of the search that has taken place under section 132 of the Act in the case of SEL Manufacturing Company and the survey conducted in the premises of the assessee subsequent to the search . It is the allegation of the AO that the assessee was involved in bogus transaction of purchase and sales with SEL Manufacturing Company. According to him the total payment for such bogus purchase is Rs.110,89,61,370/- and total payment received for such bogus sale is Rs.131,14,00,711/- and thus the assessee has introduced additional funds in the business at Rs.20,24,39,341 /- for which he made the addition. A perusal of the assessment order shows that the assessee filed its return of income declaring total income at Rs.31,41 ,11,880/-. The AO has not rejected the book results nor passed the order under section 144 of the Act. Since the assessee has shown income of Rs.31,41,11,880/- which is much more than the amount of Rs.20,24,39,341/-, therefore, such income, even if treated as bogus, has already been taxed and therefore, the addition of the same again will amount to double taxation which the Id. CIT(A) has rightly deleted . There is nothing on record to suggest that the assessee has booked any other part of expenditure in the Profit & Loss Account, therefore, we find merit in the argument of the Id. counsel that the addition of Rs.20,24,39,341/- is a double addition which the Id. CIT(A) has rightly deleted. In this view of the matter and in view of the detailed reasoning given by the CIT(A) while deleting this addition we find no

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infirmity in the same. Accordingly, the ground raised by the Revenue on this issue is also dismissed.”

9. Concededly, the AO, despite having concluded that the respondent/assessee was indulging in bogus transactions, did not proceed to reject its books of accounts.

10. Before we proceed further, we would like the appellant/revenue to place before us the entire record, in particular, the grounds taken in the appeal preferred before the Tribunal.

10.1 Mr Hossain says that he will require three weeks to place the record before the court. The request is acceded to.

11. List the matter on 19.05.2023.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

MARCH 24, 2023/r

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