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

+ ITA 184/2022

PRINCIPAL COMMISSIONER OF INCOME TAX-7 Appellant

Through: Mr.Puneet Rai, senior standing
counsel with Ms.Adeeba Mujahid,
Advocate.

versus

WGF FINANCIAL SERVICES PVT. LTD. Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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05.07.2022

Present income tax appeal has been filed challenging the Order dated 10th March, 2021 passed by the Income Tax Appellate Tribunal in ITA No. 8218/Del./2019 for the Assessment Year 2015-16.

Learned counsel for the appellant states that the ITAT erred in allowing an amount of Rs.27,76,92,000/- as business loss under Section 36(2)(i) of the Income Tax Act, 1961.

He also states that ITAT erred in considering the transaction as prudent act instead of a colourable device despite the fact that the third party – Indiabulls Financial Services Ltd. (IBFSL) had simply vanished soon after the guarantee obligation was discharged by the assessee. He submits that ITAT failed to appreciate that during the Financial Year 2014-15, Carissa Investment Private Ltd. [CIPL] had shown income of Rs.15 crores through



miscellaneous source and out of it, CIPL paid donation of Rs. 10 crores, instead of fulfilling its obligation towards the assessee. Further, the assessee company has not shown any prudent efforts made by it for recovery of amount from CIPL.

He states that ITAT has failed to consider that CIPL has not shown any revenue in its Profit & Loss Account on this amount being written off, thus claiming it as a capital receipt, yet the assessee in its hands has claimed the same as a revenue loss. This adjustment has lead to tax avoidance in both hands.

Issue notice to the respondent by all modes of service including *dasti*, returnable for 15th November, 2022.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 5, 2022
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