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

+ ITA 209/2015 & CM No. 4956/2015

COMMISSIONER OF INCOME TAX -3 Appellant
Through Mr. Kamal Sawhney, Sr. Standing
Counsel and Mr. Sanjay Kumar, Adv.

Versus

RADHA APPEARALS PVT. LTD. Respondent
Through None

AND

+ ITA 210/2015 & CM No.4957/2015

COMMISSIONER OF INCOME TAX -3, Appellant
Through Mr. Kamal Sawhney, Sr. Standing
Counsel and Mr. Sanjay Kumar, Adv.

versus

RADHA APPEARALS PVT. LTD. Respondent
Through None

AND

+ ITA 211/2015 & CM No.4958/2015

COMMISSIONER OF INCOME TAX -3, Appellant
Through Mr. Kamal Sawhney, Sr. Standing
Counsel and Mr. Sanjay Kumar, Adv.

versus

RADHA APPEARALS PVT. LTD. Respondent
Through None

AND

+ ITA 216/2015 & CM No.4964/2015



COMMISSIONER OF INCOME TAX -3, Appellant
Through Mr. Kamal Sawhney, Sr. Standing
Counsel and Mr. Sanjay Kumar, Adv.

versus

RADHA APPEARALS PVT. LTD. Respondent
Through None

AND

+ ITA 217/2015 & CM No.4967/2015

COMMISSIONER OF INCOME TAX -3, Appellant
Through Mr. Kamal Sawhney, Sr. Standing
Counsel and Mr. Sanjay Kumar, Adv.

versus

RADHA APPEARALS PVT. LTD. Respondent
Through None

AND

+ ITA 218/2015

COMMISSIONER OF INCOME TAX -3, Appellant
Through Mr. Kamal Sawhney, Sr. Standing
Counsel and Mr. Sanjay Kumar, Adv.

versus

RADHA APPEARALS PVT. LTD. Respondent
Through None

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **18.03.2015**

1. The Revenue is aggrieved by the order of the Income Tax Appellate Tribunal (ITAT) dated 15th July, 2014 in appeals pertaining to Assessment Years 2003-2004 to 2008-2009 (in ITA Nos.5488-5493/Del/ 2011). The ITAT upheld the order of the CIT, inter alia, holding that the assessment in respect of the company which was amalgamated under Sections 391/394 of the Companies Act was invalid.



2. Briefly the necessary facts are that the original assessee was amalgamated with M/s SS Bhatia Estate Developers Pvt. Ltd., to form M/s Festive Homes Pvt. Ltd. (hereinafter referred to as the ‘transferee company’) by virtue of a scheme of amalgamation approved by this Court on 17th November, 2009. The appointed date of amalgamation was 1st April, 2008. Notice was issued to the original assessee under Section 153 C of the Income Tax Act on 8th September, 2010. On 8th October, 2010, the Revenue was informed that the original assessee (i.e. the transferor under the scheme of amalgamation) had been dissolved pursuant to the amalgamation scheme and approved by the Court and that consequently the return for Assessment Year 2009-2010 had not been filed by the original assessee. A reply to the Revenue’s questionnaire was given by the assessee on 12th November, 2010, again bringing to the notice of the authorities that the scheme of amalgamation had dissolved the original assessee in whose shoes the transferee company had completely stepped in. Despite this, the Assessing Officer finalized the assessment under Section 153C, in respect of the original assessee. In appeal it was successfully contended on behalf of the assessee – which was represented by the transferee that the assessment under Section 153C was invalid since it was completed in respect of a non-existent entity. This order was appealed against by the Revenue unsuccessfully; the ITAT rejected its appeal.

3. At the outset, we notice that the ITAT followed the ruling of this Court in *M/s. Spice Entertainment Ltd. vs. CIT*, ITA No.475/2011 decided on 3rd August, 2011, subsequently followed in other rulings (refer to *Additional Commissioner of Income Tax vs. Micra India Pvt. Ltd.*, ITA No.446/2013).



4. In view of this consistent view expressed by this Court we are of the opinion that no substantial question of law arises.
5. The appeals are accordingly dismissed.

S. RAVINDRA BHAT
(JUDGE)

R.K.GAUBA
(JUDGE)

MARCH 18, 2015

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