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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **ITA 59/2023 & CM Appls.4376-77/2023**

PR. COMMISSIONER OF INCOME TAX ..... Appellant

Through: Mr Zoheb Hossain & Mr Vipul  
Agrawal, Sr. Standing Counsel with  
Mr Parth Semwal, Adv.

versus

ASHTECH INDUSTRIES PVT. LTD. .... Respondent

Through: Mr Kapil Goel, Adv.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

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

**ORDER**

**31.01.2023**

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

1. This appeal is directed against the order dated 20.12.2018 passed by the Income Tax Appellate Tribunal [in short "Tribunal"].

1.1 This appeal concerns Assessment Year (AY) 2009-2010.

2. This order was passed, after proceedings under Section 147/148 of the Income Tax Act, 1961 [in short "Act"] were initiated, based on inputs received from the Deputy Commissioner of Income Tax (DCIT).

2.1 The admitted position is, that the tax effect in the present appeal is Rs 62,88,150/-.

3. Mr Zoheb Hossain, who appears on behalf of the appellant/revenue, says that parallelly, investigations are being carried out by the SFIO, and therefore, the instant appeal will be maintainable, despite the tax impact being below the prescribed threshold in view of para 10(e) of the circular dated 20.08.2018.

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3.1 Mr Hossain, however, has placed before us, fairly, an order of the coordinate bench dated 04.05.2022 passed in ITA No. 113/2021 titled ***Pr. Commissioner of Income Tax-7 v. M/S Rajdhani Realcon P. Ltd.*** wherein a similar plea taken on behalf of the appellant/revenue was rejected. In that case, the SFIO's report is dated 31.03.2016, while the assessment order is dated 16.03.2016.

3.2 In this case, it is noticed, that the SFIO order is dated 31.03.2016, while the notice for reopening assessment was issued prior in point of time i.e., on 28.03.2016.

4. In our view, the same rationale would apply, and therefore, this appeal cannot be sustained.

4.1 The appeal is, accordingly, closed.

5. Consequently, the accompanying applications are rendered ineffectual. Accordingly, the same are closed.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**JANUARY 31, 2023/r**

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

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