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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 928/2015

PR. COMMISSIONER OF INCOME TAX-6 Appellant
Through: Mr Rahul Chaudhary, Senior Standing
Counsel with Mr Ruchir Bhatia, Junior Standing
Counsel.

versus

MOHAK REAL ESTATE PVT. LTD. Respondent

AND

19.

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ITA 930/2015

PR. COMMISSIONER OF INCOME TAX-6 Appellant
Through: Mr Rahul Chaudhary, Senior Standing
Counsel with Mr Ruchir Bhatia, Junior Standing
Counsel.

versus

MOHAK REAL ESTATE PVT. LTD. Respondent

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

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08.12.2015

CM No.29951/2015 in ITA No.930/2015

1. Allowed, subject to all just exceptions.



2. The application stands disposed of.

ITA Nos. 928 and 930 of 2015

3. These appeals by the Revenue are directed against the common order 20th May, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos.4351 and 3577/Del/2012 for the Assessment Years ('AYs') 2006-07 and 2007-08 respectively.

4. These appeals by the Revenue relating to a development agreement entered into by the Assessee with Vikram Electric Equipment (P) Ltd. (VEEPL) for development of the land for ultimate sale to the DLF Group, are similar to other appeals of the Revenue arising out of similar facts. This Court has by its decision dated 5th November, 2015 in ITA No.257/2015 (*Commissioner of Income Tax-IV v. Zebian Estate P. Ltd.*) and ITA No.270/2015 (*Principal Commissioner of Income Tax-7 v. Penthea Builders And Developers Pvt. Ltd.*) affirmed the orders of the ITAT in those appeals. In turn, that order refers to the earlier decision of the ITAT in *ITO v. Finian Estates Developers (P) Ltd. (2012) 23 taxmann.com 360 (Delhi – Trib.)* which was affirmed by this Court while dismissing the Revenue's appeal i.e. ITA No.234/2012 on 26th August, 2015.



5. Learned counsel for the Revenue sought to urge that the present appeals stand on a different footing on account of a statement made initially by the Assessee that the development agreement in question was entered into with one Mr Mast Ram. Later, in the course of the assessment proceedings, the Assessee disclosed that it was in fact entered into with VEEPL.

6. In the considered view of this Court, that single factor would not make a difference to the outcome of the appeals. Apart from the fact that the relevant clauses of the development agreement with VEEPL in these cases are more or less similar, an additional factor in the present case is that VEEPL disclosed its complete books of accounts before the Assessing Officer and this substantiated the case of the Respondent Assessee.

7. Consequently, the Court is not persuaded to take a different view of the matter as far as these appeals are concerned. No substantial question of law arises. The appeals are dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

DECEMBER 8, 2015/MK