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

\+ ITA 72/2018

PRINCIPAL COMMISSIONER OF INCOME TAX - 8
..... Appellant

Through Mr. Rahul Chaudhary, Sr. Standing Counsel.

versus

SAMWON PRECISION MOULD MFG. INDIA PVT. LTD.
..... Respondent

Through Ms. Ananya Kapoor, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% 23.01.2018

The Revenue in its appeal under Section 260A of the Income Tax Act, 1962 ('the Act') urges two questions of law i.e. (1) the treatment in the books of accounts of the assessee with respect to losses on account of foreign exchange fluctuation and (2) disallowance under Section 40A(3) of the Act in respect of ₹1,53,540/-.

The assessee's return for Assessment Year 2009-10 was selected for scrutiny; it was observed that a foreign exchange loss of ₹2,09,98,897/- was reported as falling in the revenue stream. The Assessing Officer (AO) disallowed the loss, since the assessee stated that it failed to make assessment under Section 40A(3). The

AO also added ₹ 1,53,540/- under Section 40A(3) as it involved cash transaction. On the first issue, the CIT(A) followed the judgment of the Kerala High Court in *CIT Vs. International Creative Foods (P) Ltd.*, (2012) 344 ITR 245 (Ker) and noticed that the accounting standard AS11 was followed in this case. The ITAT also upheld the deletion of disallowance. The Court has considered the submissions of the parties. The ITAT accurately observed that in the past years, in the prior and subsequent years, the assessee had accorded similar treatment for foreign exchange gains and paid the required tax. In these circumstances, having regard to the consistent approach adopted by the assessee, the conclusion arrived at by it, which is also a concurrent finding, cannot be said to involve any substantial question of law.

So far as the sum of ₹ 1,53,540/- alleged to be in violation of Section 40A(3) of the Act is concerned, the Court notices that hitherto findings are concurrent;, the amount is small and furthermore, the genuineness of the transaction cannot be doubted.

For the above reasons, no substantial question of law arises. The appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 23, 2018

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