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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 64/2001

COMMISSIONER OF INCOME TAX Appellant
Through: Mr. Kamal Sawhney, Senior Standing
counsel with Mr. Raghvendra Singh, Mr. Shikhar
Garg and Mr. Sharad Aggarwal, Advocates.

versus

POOJA FORGE LTD. Respondent
Through: Mr. Salil Aggarwal and Mr. Ravi Pratap
Mall, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER
17.11.2015

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1. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') is against an order dated 19th December 2000 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 5556 (Del)/96 for the block period 1986-87 to 1996-97.

2. The Assessee is engaged in the manufacture and trading of high tensile fasteners. A search and seizure operation was conducted on 29th September 1995 on the Assessee and other group companies. On the basis of the material seized during the search, proceedings were initiated by the issue of

notice to the Assessee under Section 158BC of the Act on 11th January 1996. The Assessee filed its block return on 3rd July 1996 declaring 'nil' undisclosed income. For Assessment Year (AY) 1995-96, the Assessee had filed a regular return of income on 30th November 1995 which was two months after the search but within the prescribed time. This return was processed under Section 143 (1) (a) of the Act.

3. The Assessing Officer ('AO') made the following additions in the block assessment order dated 27th September 1996:

(a) Rs.55,130 on account of the personal expenses which had been debited in the books of accounts of the Assessee by holding that it was not business expenditure.

(b) An addition of Rs.6,00,846 in respect of the alleged job work done by the sister concern of the Assessee on the ground that it was bogus expenditure.

(c) An addition of Rs.20,146 on account of the payment made to M/s. Madhvi International for the job work done for the period ending September 1995.

(d) An addition of Rs.2,49,74,935 being the expenses allegedly occurred on account of job work purportedly undertaken by the Assessee.

(e) An addition of Rs.46,22,172 being the expenses for lease rentals paid to

the sister concern for taking of machinery on lease.

4. The ground on which the ITAT by the impugned order deleted the above additions was that the said additions could have been made only in a regular assessment and not in the block assessment proceedings since they did not arise from material unearthed during the course of search.

5. While admitting this appeal on 12th August 2002, the Court framed the following questions of law for consideration:

“1. Whether the ITAT has rightly interpreted the scope and jurisdiction of the Assessing Officer in the block assessment proceedings?

2. Whether the ITAT was right in law in deleting addition of Rs.20,146/- on alleged job work payment to Madhvi International, Rs.2,64,926/- on account of personal expenditure of directors on travelling, RS.6,00,846/- on account of alleged job work charges, RS.50,000/- on account of alleged share capital contributed by Mr. Shiv Shankar, Rs.2,49,74,975/- on account of Manisha Exports and Rs.46,22,172/- on account of disallowance of lease rental, holding that the said additions cannot be made in block assessment proceedings?”

6. Having heard learned counsel for the parties, the Court is satisfied that the

principal question is no longer *res integra* and stands covered against the Revenue in a large number of judgments including *CIT v. Ravi Kant Jain (2001) 250 ITR 141 (Del)* in which inter alia it was held:

“The special procedure of Chapter XIV-B is intended to provide a mode of assessment of undisclosed income, which has been detected as a result of search. As the statutory provisions go to show, it is not intended to be a substitute for regular assessment. Its scope and ambit is limited in that sense to materials unearthed during search. It is in addition to the regular assessment already done or to be done. The assessment for the block period can only be done on the basis of evidence found as a result of search or requisition of books of account or documents and such other materials or information as are available with the Assessing Officer. Evidence found as a result of search is clearly relatable to sections 132 and 132A.”

7. The said decision has been subsequently followed in *CIT v. Jupiter Builders P. Ltd. 287 ITR 287* and *CIT v. Bluechip Construction Co. (P) Ltd. 213 CTR 530*.

8. Factually, the Revenue has not been able to dispute that the additions sought to be made by the AO were not on account of any material unearthed during the search but as a result of enquiry made subsequently. In the circumstances, the Court finds no legal infirmity in the order of the ITAT

deleting the additions in question.

9. Consequently, the questions are answered in the affirmative i.e. in favour of the Assessee and against the Revenue.

10. The appeal is dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

NOVEMBER 17, 2015/dn