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

41.

+ **ITA 71/2015**

COMMISSIONER OF INCOME TAX-9
ERSTWHILE CIT-VI

..... Appellant

Through: Ms Suruchi Aggarwal, Senior Standing
Counsel with Ms Lakshmi Gurung, Junior
Standing Counsel.

versus

VRINDAVAN FARMS (P) LTD.

..... Respondent

Through: Mr Ved Jain and Mr Pranjal Srivastava,
Advocates.

WITH

42.

+ **ITA 72/2015**

COMMISSIONER OF INCOME TAX-9
(ERSTWHILE CIT-VI)

..... Appellant

Through: Ms Suruchi Aggarwal, Senior Standing
Counsel with Ms Lakshmi Gurung, Junior
Standing Counsel.

versus

VRINDAVAN FARMS(P) LTD.

..... Respondent

Through: Mr Ved Jain and Mr Pranjal Srivastava,
Advocates.

AND

43.

+ **ITA 84/2015**

COMMISSIONER OF INCOME TAX-9

(ERSTWHILE CIT-VI)

..... Appellant

Through: Ms Suruchi Aggarwal, Senior Standing Counsel with Ms Lakshmi Gurung, Junior Standing Counsel.

versus

VRINDAVAN FARMS (P) LTD.

..... Respondent

Through: Mr Ved Jain and Mr Pranjal Srivastava, Advocates.

CORAM:

HON'BLE DR. JUSTICE S.MURALIDHAR

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.08.2015

1. These appeals by the Revenue are directed against the common order dated 6th June 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos.3359, 3360 & 3361/Del/2013 for the Assessment Years ('AY') 2006-07, 2007-08 and 2008-09 respectively.

2. The common question of law raised by the Revenue is whether the ITAT was justified in upholding the deletion of addition made by the Assessing Officer of Rs.4,94,50,000/- to the income of the Assessee under Section 68 of the Income Tax Act, 1961 (Act)? The said issue in turn required examination of whether the Assessee had discharged the onus of proving the identity and creditworthiness of the share applicants and the genuineness of the transactions.

3. Ms. Suruchi Aggarwal, learned Senior Standing counsel for the Appellant, relied upon the decision of this Court in *CIT v. Nova Promoters & Finlease Ltd. 342 ITR 169* and urged that the Assessing Officer (AO) was not required to “point to the source from which the money was received by the Assessee”. On the other hand, it was incumbent upon the Assessee to offer a satisfactory explanation regarding nature and source of the funds.

3. The ITAT has in the impugned order noticed that in the present case the Revenue has not doubted the identity of the share applicants. The sole basis for the Revenue to doubt their creditworthiness was the low income as reflected in their Income Tax Returns. The entire details of the share applicants were made available to the AO by the Assessee. This included their PAN numbers, confirmations, their bank statements, their balance sheets and profit and loss accounts and the certificates of incorporation etc. It was observed by the ITAT that the AO had not undertaken any investigation of the veracity of the above documents submitted to him. It has been rightly commented by the ITAT that without doubting the documents, the AO completed the assessment only on the presumption that low return of income was sufficient to doubt the credit worthiness of the share holders.

4. The Court is of the view that the Assessee by produced sufficient documentation discharged its initial onus of showing the genuineness and creditworthiness of the share applicants. It was incumbent to the AO to have undertaken some inquiry and investigation before coming to a conclusion on the issue of creditworthiness. In para 39 of the decision in *Nova Promoters (supra)*, the Court has taken note of a situation where the complete particulars of the share applicants are furnished to the AO and the AO fails

to conduct an inquiry. The Court has observed that in that event no addition can be made in the hands of the Assessee under Section 68 of the Act and it will be open to the Revenue to move against the share applicants in accordance with law.

5. In the facts and circumstances of the present appeals, the Court is satisfied that no substantial question of law arises. The appeals are dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

AUGUST 12, 2015
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