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

+ ITA 790/2010

COMMISSIONER OF
INCOME TAX

..... Appellant
Through: Ms. Suruchii Aggarwal,
Advocate

versus

M/S. SIDH VINAYAK
DEVELOPMENT PVT. LTD.

..... Respondent
Through: None

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Date of Decision: 30th August, 2010

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment? No.
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the Digest? No.

MANMOHAN, J:

1. The present appeal has been filed under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as "Act, 1961") challenging the order dated 13th November, 2009 passed by the Income Tax Appellate Tribunal (for brevity "Tribunal") in ITA No. 187/Del/2009 for the Assessment Year 2000-2001.

2. Ms. Suruchii Aggarwal, learned standing counsel for the Revenue stated that the Assessing Officer had rightly made an addition of ₹ 51.50 lacs, as the same were loans advanced to the respondent-

assessee by two parties namely, M.V. Marketing Pvt. Ltd. and Ethnic Creations Pvt. Ltd. She submitted that under Section 68 of the Act, 1961, the onus for proving the source of money is on the assessee and no further burden lies on the Revenue to show that income is from any particular source. She pointed out that the assessee had failed to produce before the Assessing Officer either the books of accounts or principal officers or Directors of those persons who had given credit entries. Consequently, according to her, the creditworthiness of the parties and genuineness of the transactions were not proved.

3. However, upon a perusal of the file, we find that the addition was deleted by the Commissioner of Income Tax (Appeals) [for short "CIT(A)"] and Tribunal on the ground that the creditors had filed their bank accounts and had even furnished their PAN details. In fact, the tribunal in its order has observed as under :-

"4. We have considered the rival submissions. A perusal of the assessment order clearly shows that the assessee has furnished the confirmation of the parties. The assessment order also shows that the assessee had been asked to produce the parties in person and this was not done. A perusal of the order of Ld. CIT(A) clearly shows that in the course of assessment proceedings, the assessee had filed the confirmation letters from the parties, the PAN of the parties and the photocopy of the cheques through which the payments had been received. It is also noticed that the Ld. CIT(A) has verified the assessment records and also found that the A.O. had directly called for the bank accounts of the two parties along with accounts opening forms and other papers and the transactions were found recorded in the bank account as also that of the paying companies. Though the A.O. has done verification directly from the bank accounts of the two paying companies, he has not mentioned anything about this in the assessment order. It is also noticed from the order of the Ld. CIT(A) that the Tripartite agreement

had also been referred to in the assessment proceedings. The order of Ld. CIT(A) also categorically mentions that the confirmation letter contains their PAN details and that they are assessed to tax. The CIT(A) had also given categorical finding that the amounts have been duly reflected in the bank accounts of both the parties and they are also reflected in the accounts and balance sheets of both the paying companies. In these circumstances, as no evidence to rebut the findings given by the Ld. CIT(A) have been placed before us, we are of the view that the findings of Ld. CIT(A) on this issue which has been done after verifying the assessment records, is on a right footing and do not call for any interference.

4. Keeping in view aforesaid finding of fact arrived at by the final fact finding authority, we are of the opinion that the same is both fair and reasonable. In any event, no substantial question of law arises in the present proceeding.

5. Accordingly, the present appeal is dismissed *in limine*.

MANMOHAN, J

CHIEF JUSTICE

AUGUST 30, 2010

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