

IN THE HIGH COURT OF DELHI AT NEW DELHI

04.05.2009

Present:

Ms Prem Lata Bansal, Ms Anshul Sharma, Mr Sanjeev Rajpal and Mr Mohan Prasad Gupta, Advocates for the Appellant.

Mr Dharmesh Mishra and Mr Ritesh Sharma, for the Respondent.

ITA No. 47/2007

EXXIN SECURITIES & CREDITS Pvt. Ltd.

By means of this appeal the Revenue seeks to disturb concurrent findings of fact returned by the CIT(A) and the ITAT. The issues before the Tribunal were as follows:-

1. The learned CIT(A) has erred in restricting addition of Rs 10,60,000/- on account of unexplained investment in capital share to Rs 1,50,000/-.
2. The learned CIT(A) has erred in deleting the addition of Rs 40,000/- made on account of consultancy charges.

We pointed out to learned counsel of the Revenue that the High Court does not disturb findings of fact unless the findings are perverse. In response thereto it is being contended that there was a violation of Rule 46A(3) of the Income Tax Rules, 1962, thereby resulting in a question of law having arisen. The argument is that since no opportunity was given to the Department at the stage of the proceedings before the CIT(A), not only had the relevant rules
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been violated but the conclusion may be termed as perverse. We are unable to accept this argument for simple reason that violation of Rule 46A(3) was not a ground raised before the ITAT despite the fact that it may have been contemplated in the order dated 06.06.2002. The Tribunal cannot be legally faulted in not taking the said rule into consideration if it did not form a part of the appeal at all.

No substantial question of law arises for our consideration.

Dismissed.

VIKRAMAJIT SEN, J.

RAJIV SHAKDHER, J.

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