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

+ **ITA 56/2017**

COMMISSIONER OF INCOME
TAX- CENTRAL-3

..... Appellant

Through : Mr. Ruchir Bhatia and Mr. Puneet
Rai, Advs.

Versus

PRAVEEN JUNEJA

..... Respondent

Through : None.

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH**

ORDER

% **14.07.2017**

CM No. 2766/2017 (Exemption)

1. Allowed, subject to all just exceptions.

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2. This is an appeal by the Revenue against the order dated 29th July, 2016 passed the Income Tax Appellate Tribunal ('ITAT') in ITA No. 3032/Del/2012 for the Assessment Year ('AY') 2004-05.

3. The Revenue is aggrieved by the order of ITAT whereby it deleted the addition of Rs. 80,50,000 to the income of the Respondent/Assessee by the Assessing Officer ('AO'), which order was affirmed by the Commissioner of Income Tax (Appeals) ['CIT (A)'].

4. A search took place in the premises of the Respondent/Assessee pursuant

to which certain documents were seized. The document on the basis of which the above addition was made was a piece of paper dated 24th November, 2003. It contained a hand-written figure of '8050'. In two columns it set out details of purportedly expenses on drive way, tennis court, garden lights etc. in the left column totalling '9.45' and some other expenses relating to the architect, wooden fittings, bathroom fittings, etc. in the right column totalling '13.45'.

5. The explanation offered by the Assessee was that he was a director of Omaxe Ltd., a company in the construction business. He sought to explain that the said paper containing estimates in relation to the Omaxe Plaza project of the company was with him in that capacity. The CIT (A) rejected the above explanation on the ground that seized document nowhere contained the name Omaxe Ltd. Since the said document had been seized from the residence of Assessee, the CIT (A) drew a presumption under Section 292C of the Act was that it belonged to him. Further, the CIT(A) proceeded on the basis that the figure of '8050' was in fact Rs. 80,50,000 and constituted the unexplained income of the Assessee since the Assessee had not submitted any evidence like a confirmation letter or any other document to show that expenditure related to Omaxe Ltd.

6. The ITAT in the impugned order noted that the document was “silent as to the payer and payee of the amount in question nor does it disclose that the payment was made by cheque or cash nor it is proved that the document is in the handwriting of assessee or at least bears his signatures.”

7. In the considered view of the Court, the addition of Rs.80,50,000 merely on the basis of a single document without making any further enquiry was not justified. No attempt was made by the AO to find out if in fact it constituted estimates relating the construction of project of Omaxe Ltd.

8. In the circumstances, the impugned order of the ITAT suffers from no legal infirmity and does not give rise to any substantial question of law.

9. The appeal is, accordingly, dismissed.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 14, 2017

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