

\$~11

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

+ **ITA 57/2017**

COMMISSIONER OF INCOME

TAX- CENTRAL-3

..... Appellant

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

Versus

SHRI PRAVEEN JUNEJA

..... Respondent

Through : None.

**CORAM:**

**HON'BLE DR. JUSTICE S.MURALIDHAR**

**HON'BLE MS. JUSTICE PRATHIBA M. SINGH**

**ORDER**

%

**14.07.2017**

1. This is an appeal by the Revenue against the order dated 29<sup>th</sup> July, 2016 passed the Income Tax Appellate Tribunal ('ITAT') in ITA No.3031/Del/2012 for the Assessment Year ('AY') 2003-04.
2. The Revenue is aggrieved by the order of ITAT whereby it deleted the addition of Rs. 49 lakhs 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)'].
3. 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 (identified as

Annexure-2. This was a hand written paper purportedly containing details of house construction expenses of Rs. 49 lakhs out of which Rs. 29. 70 lakhs has already been paid.

4. The explanation offered by the Assessee was that the said paper was not related to him the assessee. He was working as a professional director in Shamken Multifab Ltd. and used to handle various projects of the said company. The CIT (A) rejected the above explanation. Since the said document had been seized from the residence of Assessee, the CIT (A) drew a presumption under Section 292 C of the Act was that it belonged to him. Further, the CIT(A) proceeded to hold that Rs. 49 lakhs 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 any project of the aforementioned company.

5. The ITAT in the impugned order noted that the said document "does not indicate if it pertains to the assessee nor the address and location of the property is mentioned therein nor such property has been located by the AO during the assessment proceedings. The AO has also not brought on record any forensic evidence to prove the handwriting of the loose paper relied upon by him to make the addition, which is exclusively made on the basis of suspicion and guesswork. Even no corroborative material has brought on record by the AO to substantiate the addition nor the CIT(A) has called for any remand report seeking corroborative evidence, if any."

6. In the considered view of the Court, the addition of Rs. 49 lakhs to the

returned income of the Assessee was based on surmises and conjectures and that too on the basis of a single document without making any further enquiry. No attempt was made by the AO to find out if in fact it constituted the construction expenses of any project of the aforementioned company of which the Assessee was a director.

7. 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.

8. The appeal is, accordingly, dismissed.

**S.MURALIDHAR, J**

**PRATHIBA M. SINGH, J**

**JULY 14, 2017**

*dk*