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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 943/2015

COMMISSIONER OF INCOME TAX-III ..... Appellant

Through: Mr Kamal Sawhney, Senior Standing Counsel with Mr Raghvendra Singh, Junior Standing Counsel, Mr Sharad Agarwal and Mr Shikhar Garg, Advocates.

versus

SARVMANGALAM BUILDERS & DEVELOPERS PVT. LTD. ..... Respondent

WITH

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ITA 944/2015

COMMISSIONER OF INCOME TAX-III ..... Appellant

Through: Mr Kamal Sawhney, Senior Standing Counsel with Mr Raghvendra Singh, Junior Standing Counsel, Mr Sharad Agarwal and Mr Shikhar Garg, Advocates.

versus

SARVMANGALAM BUILDERS & DEVELOPERS PVT. LTD. ..... Respondent

AND

25.
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ITA 945/2015

COMMISSIONER OF INCOME TAX-III ..... Appellant

Through: Mr Kamal Sawhney, Senior Standing Counsel with Mr Raghvendra Singh, Junior Standing Counsel, Mr Sharad Agarwal and Mr Shikhar Garg, Advocates.

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versus

SARVMANGALAM BUILDERS & DEVELOPERS PVT.LTD. ..... Respondent

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **11.12.2015**

CM No.30416/2015 in ITA 943/2015
CM No.30419/2015 in ITA 945/2015

1. Allowed, subject to all just exception.

2. The applications stand disposed of.

CM No.30417/2015 in ITA 943/2015
CM No.30418/2015 in ITA 944/2015
CM No.30420/2015 in ITA 945/2015

3. For the reasons stated in the applications, the delay of 380 days in re-filing the appeals is condoned.

4. The applications stand disposed of.

ITA Nos.943/2015, 944/2015 & ITA 945/2015

5. The Revenue has filed these appeals against the common order dated 14th March, 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos.196 to 198/Del/2011 for the Assessment Years ('AY') 2002-03 to 2004-

05.

6. The short point arises for consideration whether the ITAT erred in holding that the proceedings under Section 153A of the Act initiated against the Assessee was bad in law since the premises which were searched under Section 132 were not of the Assessee.

7. The ITAT has noted as a matter of fact that the premises that was searched i.e. 3rd Floor, Global Arcade, M. G. Road, Gurgaon was not of the Assessee. There was nothing on record to connect the Assessee with the premises searched. Therefore, *qua* the Assessee, the proceedings under Section 153 A was invalid. This being a factual aspect, no question of law arises.

8. The appeals are dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

DECEMBER 11, 2015
MK