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

\+ **ITA 175/2016**

PRINCIPAL COMMISSIONER OF INCOME-TAX-09 ..... Appellant
Through: Mr. Dileep Shivpuri, Senior Standing Counsel and Mr. Zoheb Hossain, Junior Standing Counsel.

versus

WORLD WINDOW IMPEX INDIA (P) LTD. ..... Respondent
Through:

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **09.03.2016**

1. This is an appeal by the Revenue against the order dated 16th September, 2015, passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.3508/Del/2013 for the Assessment Year 2005-2006.

2. The Assessee filed an original return on 30th October 2005, showing a loss of Rs. 87,19,500/-. A search and seizure operation was carried out in the business premises of the Assessee on 13th March, 2008. A notice under Section 153A of the Income Tax Act, 1961 ('the Act') was issued and in the return filed pursuant to the said notice the same loss was disclosed. In the assessment proceedings, the Assessing Officer ('AO') made an addition of Rs. 2.25 crore under Section 68 of the Act. This was challenged before the Commissioner of Income Tax (Appeals) ['CIT(A)'] by the Assessee on the ground that there was no incriminating material to support the addition.

This plea of the Assessee was accepted by the CIT(A) by the order dated 13th March, 2013.

3. In the appeal filed by the Revenue before the ITAT, cross-objections were filed by the Assessee. The Assessee placed reliance on the judgement of this Court in ***Commissioner of Income Tax (Central)-III v. Kabul Chawla (2016) 380 ITR 573 (Del.)***. Following the said decision, the ITAT dismissed the Revenue's appeal and allowed the Assessee's cross-objections.

4. Mr. Dileep Shivpuri, learned Senior Standing Counsel for the Revenue, sought to distinguish the judgement in ***Commissioner of Income Tax (Central)-III v. Kabul Chawla*** (*supra*) on the ground that it did not consider a situation where the original return was merely processed under Section 143(1) of the Act.

5. The Court notes that the decision in ***Commissioner of Income Tax (Central)-III v. Kabul Chawla*** (*supra*) does deals with the said situation as is evident from para 3 of the said judgment read with the conclusion in para 37 (v). The Court is, therefore, not persuaded to frame any question of law in this appeal.

6. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 09, 2016
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