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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 274/2016

THE PRINCIPAL COMMISSIONER OF INCOME
TAX-18

..... Appellant

Through: Mr Dileep Shivpuri, Senior Standing
counsel with Mr Sanjay Kumar, Junior Standing
counsel.

versus

MS. LATA JAIN

..... Respondent

Through: Mr Piyush Kaushik, Advocate.

AND

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ITA 276/2016

THE PRINCIPAL COMMISSIONER OF
INCOME TAX-18

..... Appellant

Through: Mr Dileep Shivpuri, Senior Standing
counsel with Mr Sanjay Kumar, Junior Standing
counsel.

versus

MS. LATA JAIN

..... Respondent

Through: Mr Piyush Kaushik, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

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06.05.2016

1. These appeals are taken up on the basis of an office note. The order dated
29th April, 2016 is corrected and shall read as under:

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ITA 274/2016

THE PRINCIPAL COMMISSIONER OF
INCOME TAX-18

..... Appellant

Through: Mr.Dileep Shivpuri, Senior Standing

counsel with Mr. Sanjay Kumar, Advocate.

versus

LATA JAIN Respondent
Through: Mr. Piyush Kaushik, Advocate.

AND

+ **ITA 276/2016**

THE PRINCIPAL COMMISSIONER OF
INCOME TAX-18 Appellant
Through: Mr. Dileep Shivpuri, Senior Standing
counsel with Mr. Sanjay Kumar, Advocate.

versus

LATA JAIN Respondent
Through: Mr. Piyush Kaushik, Advocate.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE VIBHU BAKHRU

ORDER

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29.04.2016

CM No. 15007/2016 (for exemption) in ITA No. 276/2016

1. Exemption allowed subject to all just exceptions.
2. The application is disposed of.

ITA No. 274/2016 & 276/2016

3. These appeals by the Revenue are, under Section 260A of the Income Tax Act, 1961 ('Act'), against the common judgment dated 29th May 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 2140/Del/2008 and 2141/Del/2008 for Assessment Years ('AYs') 1998-99 and 1999-2000.

4. By the impugned order, the ITAT dismissed the appeal of the Assessee and allowed the cross objections of the Assessee.

5. The short point involved is whether the ITAT was correct in concluding that there had to be incriminating material recovered during the search qua the Assessee in each of the years for the purposes of framing an assessment under Section 153A of the Act?

6. It is not in dispute that in respect of the Respondent Assessee for the AYs in question the initial assessment proceedings took place under Section 143(3) of the Act. Thereafter they were sought to be reopened by issuing notice under Section 147 of the Act and re-assessment orders were passed under Section 147 read with Section 143(3) of the Act. During both the aforementioned proceedings the question whether the gold and silver utensils were the capital assets or personal effects of the Assessee was examined. They were held not to be the personal effects.

7. It has been noticed by the ITAT in the impugned order that for the AYs in question no incriminating material qua the Assessee was found.

8. In that view of the matter, and in light of the decision of this Court in *CIT v. Kabul Chawla [2016] 380 ITR 573 (Delhi)*, the Court is of the view that the impugned order of the ITAT suffers from no legal infirmity and no substantial question of law arises for determination.

9. The appeals are dismissed.”

S.MURALIDHAR, J

VIBHU BAKHRU, J

MAY 06, 2016/MK