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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
ITA 633/2016 & CM No. 30477/2016
PR. COMMISSIONER OF INCOME TAX (CENTRAL)-3

..... Appellant

Through: Mr. Rahul Chaudhary, Sr. Standing
Counsel along with Mr. Raghvendra
Singh, Advocate.

versus

MARICHIKA PROPERTIES PVT. LTD. Respondent
Through: Mr. Rohit Kumar Gupta, Advocate
along with Ms. Monika Ghai,
Advocate.

And

+ ITA 634/2016 & CM No. 30478/2016

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-3

..... Appellant

Through: Mr. Rahul Chaudhary, Sr. Standing
Counsel along with Mr. Raghvendra
Singh, Advocate.

versus

MARICHIKA PROPERTIES PVT. LTD. Respondent
Through: Mr. Rohit Kumar Gupta, Advocate
along with Ms. Monika Ghai,
Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
19.10.2016

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The revenue's grievance is with respect to the ITAT's impugned order deleting the additions made consequent to an assessment pursuant to search and seizure proceedings under Section 153A.

The search and seizure proceedings in respect of the assessee were carried out on 26.09.2011. The AO issued notice under Section 153A and in the final assessment completed on 03.07.2012, determined the total income of ₹ 1,10,83,618/-. It involved an add back under Section 40(A) of the Income Tax Act. The order was confirmed by the CIT(A) who partly allowed the assessee's contention. The assessee thereafter approached the ITAT.

The ITAT by the impugned order accepted the assessee's contention and in the course of its order relied upon the reasoning of a Division Bench of this Court in impugned order in *CIT vs Kabul Chawla* (380 ITR 573).

Learned counsel for the revenue contends that in the facts of this case, *Kabul Chawla* could not be *per se* applied because the earlier assessment was completed under Section 143 (1). It was urged that in the course of search proceedings, the material discovered showed that the assessee had acquired agricultural income and had paid amounts in excess of ₹ 20,000/- in cash.

This court is of the opinion that the revenue's contentions are insubstantial. Unlike Section 148 which permits re-assessment for a completed previous year, in case tangible material available subsequently and which also further distinguishes between the return filed under Section 143(1) on the one hand and the scrutiny assessment

on the other hand under Section 143(3), section 153A makes no such distinction. In other words, the basic premise on which *Kabul Chawla* was decided i.e. that in the course of search and seizure proceedings there should be some new material forthcoming to permit addition in the Section 153A Block assessments, would squarely apply. Consequently, the revenue's contentions cannot be accepted. No question of law arises.

Appeals are accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

OCTOBER 19, 2016

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