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

\+ ITA 619/2016, CM APPL.30408/2016

COMMISSIONER OF INCOME TAX-VIII ..... Appellant
Through: Mr. Zoheb Hossain, Sr. Standing Counsel with Mr. Deepak Anand, Jr. Standing Counsel.

versus

PARAMJEET KOCHAR ..... Respondent
Through: None.

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

O R D E R

% **22.08.2016**

The Revenue is aggrieved by an order of the Income Tax Appellate Tribunal ("ITAT") which affirmed the decision of the Appellate Commissioner. For the relevant period, i.e., AY 2007-08, the assessee had reported a sale transaction of ₹3,20,00,000/-.

On the basis of the assessee's husband's, i.e., the previous owner's personal balance sheets filed during the course of the previous year's income tax proceedings she had contended that the cost of construction was ₹1,11,74,171/-. The Assessing Officer rejected this and determined - on the basis of the late owner's proprietorship firm that the written down value of the property could not exceed ₹2,57,693/-. He, therefore, held that the assessee had earned short term capital gain of Rs.99,78,978/- and long term capital gain of Rs.1,50,60,228/-.

The CIT (A) - to whom the assessee preferred an appeal noticed a fact that the individual return of the Late G.S. Kochar, i.e., the previous owner of the property had apparently returned the construction cost which worked out to ₹1,11,74,271/- and that these details were overlooked by the AO who instead went by the depreciated and ultimately written down value of the property of late G.S. Kochar's firm's return. The ITAT concurred with the opinion of the CIT (A) and held that the gains were to be calculated on the basis that the cost of construction which was ₹1,11,74,271/-.

We have considered the revenue's contentions as well as its grounds urged in support of the appeal. Having regard to the purely factual nature of the findings of the ITAT, this Court is of the opinion that no question of law arises.

The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 22, 2016
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