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

\+ ITA 685/2016

PR. COMMISSIONER OF INCOME TAX, CENTRAL-2
..... Appellant

Through: Mr. Asheesh Jain, Sr. Standing Counsel with Mr. Arun Khatri, Jr. Standing Counsel.

versus

M/S MAHAGUN REALTORS PVT. LTD. REPRESENTED BY MAHAGUN INDIA PVT.LTD ..... Respondent

Through: Dr. Rakesh Gupta with Mr. Somil Agarwal, Mr. Rohit Kr. Gupta and Ms. Monika Ghai, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% **21.12.2016**

The question of law framed in this case is as follows: **-**

"Did the Tribunal fall into error in holding that the block period assessment was unsustainable for the reasons spelt out in CIT v. Kabul Chawla 380 ITR 573 given the facts and circumstances of the present case."

The Tribunal set aside the assessment under Section 153A of the Income Tax Act, 1961 based upon its analysis of the facts that no material was seized or discerned in the course of search and seizure proceedings.

The Revenue urges that the records itself indicates that for the given year, i.e., 2006-07, the assessee had not urged about the absence of materials.

Counsel for the assessee further submits that a miscellaneous application is pending before the ITAT to the same effect. In other words, the parties (assessee and the revenue) are *ad idem* to the question that for assessment years 2006-07, the question of absence of materials had not been urged. In the circumstances, the impugned order so far as it relates assessment years 2006-2007 passed in ITA 3664/Del/2012 is hereby set aside. The matter shall be considered afresh upon the materials available on the record and having regard to the contentions of the parties in respect of the grounds urged in the said appeal.

The question is answered accordingly. Appeal is allowed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 21, 2016
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