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

\+ CM(M) 549/2015 & CM Nos.10464-10465/2015

SOUTH DELHI MUNICIPAL CORPORATION..... Petitioner
Through Ms.Princy Ponnan, Adv.

versus

M/S CHAUDHARY TRADING CORPORATION..... Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

O R D E R

% 21.07.2016

By the present petition the petitioner has sought to impugn the order dated 27.2.2015. By the said order the trial Court had relying upon the judgment of the learned Single Judge of this Court in petition titled M/s. Sukarya Enterprises vs. South Delhi Municipal Corporation directed that the sum of TDS deducted which is Rs.16,411/- be paid to the respondent. The Court further directed issue of an undertaking by the respondent as follows:-

> "Accordingly, it is directed that DH will submit to this Court, as well as to JD, an undertaking by way of affidavit within a period of two weeks from today stating that in the event of any liability as stated is passed on to the JD in future by the Income Tax Department in respect of non deduction of TDS from the interest component in terms of Award, said liability will be borne by DH in accordance with law. Subject to compliance of above terms, the pay order received be released to DH on identification by counsel by the Civil Nazir."

Learned counsel for the parties submit that now the judgment of the Division Bench of this Court in EFA(OS) 2/2015 titled South Delhi Municipal Corporation vs. M/s.Sain & Sons dated 6.4.2016 has held that in view of Section 194A and 194C of the Income Tax Act all amounts received by an assessee have to be subjected to tax.

Accordingly, as the respondent has already received the payments from the petitioner the present petition is disposed of reiterating that the respondents shall be bound by the undertaking by means of an affidavit given before the trial Court and as reproduced above.

Petition stands disposed of.

JAYANT NATH, J

JULY 21, 2016

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