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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 821/2016**
THE PR. COMMISSIONER OF INCOME TAX-CENTRAL-3
..... Appellant
versus
BABA GLOBAL LTD. Respondent
+ **ITA 822/2016, C.M. APPL.43364/2016**
THE PR. COMMISSIONER OF INCOME TAX-CENTRAL-3
..... Appellant
versus
BABA GLOBAL LTD. Respondent
Through : Sh. Ruchir Bhatia, Sr. Standing Counsel
with Sh. Puneet Rai, Jr. Standing Counsel, for
petitioner, in Item Nos. 6 to 10.
Sh. Pranjal Srivastava, Advocate, for respondent,
in Item Nos. 6 to 10.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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14.12.2016

The revenue urges that the Income Tax Appellate Tribunal's (ITAT) decision, setting aside the assessments made by the Transfer Pricing Officer (TPO)/Assessing Officer (AO) after the search and seizure proceedings, culminating in a proceeding under Section 153A of the Income Tax Act, 1961 [hereafter "the Act"] was unwarranted.

The facts are that during the relevant period, i.e. AY 2006-07 and 2007-08, scrutiny proceedings were concluded and assessments were framed by the concerned AO. Later, on 21.01.2011, search and seizure proceedings took place in the assessee's premises. Concededly, no new materials much less incriminating material, were

unearthed. Nevertheless, based upon the existing material, the AO referred the matter to the TPO under Section 92C on the basis of an opinion that one of the transactions, i.e advance to the Associated Enterprise on interest-free basis ought to have attracted an addition. The TPO, after conducting appropriate analysis, indicated his findings which resulted in an approved assessment order on the basis of findings in Arms' Length Price (ALP) determination. The Disputes Resolution Panel (DRP) – upon the assessee's appeal reduced the rate of interest. The ITAT upon the assessee's further appeal quashed the assessment principally on the ground that in the absence of seizure of any incriminating material, the rule enunciated in *CIT v. Kabul Chawla* 2016 (380) ITR 573 (Del) was applicable invalidating the proceedings under Section 153A.

This Court has considered the record. It is quite evident that the scrutiny assessments concluded earlier were based upon queries. The assessee had disclosed all the materials which came to be reviewed subsequently in Section 153A proceedings. Thus, having regard to the the decision in *Kabul Chawla (supra)*, the ITAT, in this Court's opinion, did not fall into error in quashing the proceedings. The appeals are accordingly dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 14, 2016

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