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

\+ ITA 874/2016, CM APPL.45107/2016

PRINCIPAL COMMISSIONER OF INCOME TAX - 9 ..... Appellant
Through: Mr. Zoheb Hossain, Advocate.

versus

RAM KUMAR SHOKEEN ..... Respondent
Through: None.

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

<u>O R D E R</u>
% **05.12.2016**

In the present case, the revenue claims to be aggrieved by the order of the ITAT which directed deletion of sums sought to be brought to tax in the hands of the assessee on protective basis.

The facts necessary in this regard are that search and seizure proceedings were initiated and conducted in the premises of one M/s Khinda Group of Companies (hereafter "Khinda Group") in the course of which, documents, books of accounts and other materials were detained/taken into custody. Simultaneously, search proceedings took place in the premises of one of the Directors of Khinda Group from where as well documents were seized. On an appreciation, the revenue concluded that Vijeta Properties Pvt. Ltd., the purchaser paid amounts in excess of the declared value to the tune of ₹21 crores and brought it to tax both in the hands of the seller as well as the buyer. In addition, the assessee was also taxed on protective basis. The CIT (A) and ITAT both ruled that none of the materials belonged to the assessee so as to justify him being taxed on protective basis. This Court is in entire agreement with the findings of the ITAT; it is also apparent that the materials on record, i.e., those seized, unequivocally point to the circumstance that the amounts were paid by the buyer.

In the circumstances, in the absence of any material connecting the assessee, a Director or even a statement by him, the findings of the AO were not justified. No substantial question of law arises; the appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

DECEMBER 05, 2016
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