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

+ ITA 884/2016, C.M. APPL.45457/2016

PRINCIPAL COMMISSIONER OF INCOME TAX - 9..... Appellant
Through : Sh. Zoheb Hossain, Sr. Standing
Counsel with Sh. Akshay Saxena and Sh. Deepak
Anand, Advocates.

Versus

RAM KUMAR SHOKEEN Respondent
Through : Sh. Ved Jain and Sh. Pranjal Srivastava,
Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

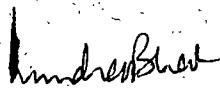
% **07.12.2016**

In the present case, the Revenue claims to be aggrieved by the order of the Income Tax Appellate Tribunal (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 M/s. 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 the ITAT both ruled that none of the materials belonged to the assessee so as to justify him being taxed on protective basis. The 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 circumstances 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 Assessing Officer (AO) were not justified. No substantial question of law arises; the appeal is, therefore, dismissed.


S. RAVINDRA BHAT, J


NAJMI WAZIRI, J

DECEMBER 07, 2016

ajk