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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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\+ **ITA 658/2015**

PR. COMMISSIONER OF INCOME TAX-15 ..... Appellant
Through: Mr. Dileep Shivpuri, Senior Standing counsel with Mr. Zoheb Hossain, Advocate.

versus

PREM PRAKASH GARG ..... Respondent

AND

14.
\+ **ITA 659/2015**

PR. COMMISSIONER OF INCOME TAX-15 ..... Appellant
Through: Mr. Dileep Shivpuri, Senior Standing counsel with Mr. Zoheb Hossain, Advocate.

versus

PREM PRAKASH GARG ..... Respondent

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER
% **02.02.2016**

1. These are two appeals under Section 260A of the Income Tax Act, 1961 ('Act') by the Revenue against a common order dated 30th January 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 4552/Del/2009 and 4528/Del/2009 for the Assessment Year ('AY') 2005-

06.

2. It must be mentioned at the outset that the said impugned order of the ITAT is common to ITA No. 4551/Del/2009 which was for the AY 2004-05. The Revenue's appeal as far as that AY is concerned, has been dismissed by this Court.

3. The point which is sought to be urged by the Revenue is whether the ITAT was correct in deleting the additions made in the hands of the Assessee under Section 68 of the Act.

4. The assessment for AY 2005-06 were sought to be reopened by issuing of the notice under Section 148 of the Act consequent upon the survey conducted in respect of another Assessee Mr. Sanjay Kumar Garg under Section 133A of the Act. From the statement of Mr. Sanjay Kumar Garg, it transpired that he was using several firms for depositing cash in their various bank accounts. One of the entities was Baba Kishore Enterprises of which the Assessee is a sole proprietor.

5. It must also be noticed that the substantive addition made in the hands of Mr. Sanjay Kumar Garg has been deleted by the ITAT by an order dated 28th January 2011.

6. As far as the Assessee is concerned, it is seen that the ITAT has in fact sustained the addition to the extent of the commission received by the Assessee at 10 paisa per Rs. 100 and at 0.5% of the turnover. Reliance was sought to be placed by the Revenue on the statement of Mr. Sanjay Kumar

Garg which confirms the payment of commission to the Assessee. However, the addition in the hands of the Assessee of the amount representing the commission paid has been upheld by the ITAT. The Court therefore does not find any substantial question of law arising for determination in these appeals.

7. The appeals are dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 02, 2016/dn