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

\+ W.P.(C) 15111/2004

DINESH KUMAR ..... Petitioner

Through Mr. S. Krishnan, Advocate.

versus

THE DIRECTOR OF INCOME TAX & O ..... Respondent

Through Mr. Asheesh Jain, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

<u>O R D E R</u>

% **07.12.2017**

1. The petitioner had approached this Court under Article 226 of the Constitution claiming that the seizure of the sum of Rs.36,64,912/- from the accounts of M/s. Krishna Machine Tools through Mr. Dinesh Kumar, its proprietor (CA-110762), with the Oriental Bank of Commerce, E-Block, was unlawful.

2. Apparently, a survey under Section 133A of the Income Tax Act, 1961, was conducted in the premises of M/s. Vishal Iron Works Pvt. Ltd. This was later converted into a search under Section 132 of the Act. Several documents and papers were seized. Apparently, based upon a list found in the premises of M/s. Vishal Iron Works Pvt. Ltd. (whose proprietor had introduced the petitioner to the Oriental Bank of Commerce), the accounts of M/s. Krishna Machine Tools was also attached and the concerned amount of Rs. 36,64,912/- was seized.

3. It is conceded by the learned counsel for the parties that no

notice was issued under Section 158BB of the Income Tax Act, 1961, as then applicable. The record also would reveal that no interim order was granted, in any manner, precluding the revenue from proceeding to complete the assessment in respect of the seized amount, if it was of the opinion that the petitioner was liable to pay income tax on concealed amounts.

4. This petition was entertained in the year 2004. In view of the facts that, till date, there has been no impediment and, given the circumstances, that the time stipulated under the Act for completing the search assessments for AY 2004-05 and for issuing notice or proceeding to reopen assessment, has long since expired, this Court is of the opinion that the petitioner would be legitimately entitled to claim the amount seized.

5. In these circumstances, the respondents are, hereby, directed to pass an appropriate order in that regard within four weeks from today and take necessary and consequential action.

6. The writ petition is allowed in the above terms.

7. Order *Dasti* under the signatures of the Court Master.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 07, 2017/st