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

\+ ITA 985/2017

PR,COMMISIONER OF INCOME TAX-1 ..... Appellant

Through Mr. Ashok K. Manchanda, Advocate.

versus

RAKESH KUMAR GARG ..... Respondent

Through None.

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

O R D E R

% **14.11.2017**

CM No.41108/2017 (exemption)

Exemption is allowed subject to all just exception.

ITA 985/2017 & CM Nos.41106/2017 (for condonation of delay in re-filing), 41107/2017 (for condonation of delay in filing)

1. The question sought to be urged by the Revenue, in this appeal under Section 260A of the Income Tax Act, 1961, is with respect to the interest amount of Rs.9,51,557/-, claimed as interest expenditure for business purposes. The assessee’s premises were searched on 31.07.2008. The addition, in issue, was made in the course of search assessment under Section 153A of the Income Tax Act, 1961. The ITAT directed the deletion of the amount on the ground that there was no basis in the search assessment proceedings since no incriminating material or document, on that score, had been recovered or found.

2. We notice that the assessee had relied upon the judgment in *Commissioner of Income Tax vs. Kabul Chawla*, (2015) 380 ITR 573, where, it was held that to justify an addition in the course of search proceedings, there has to be some incriminating material found by the authorities during the course of search. On the application of ratio of the judgment in the *Commissioner of Income Tax vs. Kabul Chawla*, (2015) 380 ITR 57, this Court is of the opinion that no question of law arises.

3. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 14, 2017
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