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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 869/2017**

PR. COMMISSIONER OF INCOME TAX,
DELHI – 02 ..... Appellant
Through: Mr. Rahul Kaushik, Senior standing counsel.

versus

BEST INFRASTRUCTURE INDIA (P) LTD. ..... Respondent
Through: Mr. Ved Jain with Mr. Pranjal Srivastava and Ms. Devina Sharma, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R
% **13.10.2017**

CM APPL 36953/2017 (exemption)

1. Allowed subject to all just exceptions.

CM APPL 36954/2017 (delay of 12 days in filing)

2. For the reasons stated therein, this application is allowed. The delay of 12 days in filing the appeal is condoned.

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3. This appeal, under Section 260A of the Income Tax Act, 1961 ('Act'), is directed against the impugned order dated 8th February 2017 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 2742/Del/2014 for the

Assessment Year ('AY') 2008-09.

4. The question sought to be urged by the Revenue is whether the ITAT erred in holding that the assumption of jurisdiction under Section 153 A of the Act was erroneous inasmuch as the material seized during the search was not 'incriminating'?

5. It is seen that the ITAT has come to the above conclusion by relying on the decision of this Court in ***Commissioner of Income Tax v. Kabul Chawla [2016] 380 ITR 573 (Del)***. The ITAT has, in the impugned order, discussed in detail the 'materials' seized during the course of search and has concluded that it was not incriminating.

6. Having been shown the same material by the learned counsel for the Revenue, the Court too is unable to come to a different conclusion. No substantial question of law arises from the impugned order of the ITAT.

7. The appeal is dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

OCTOBER 13, 2017
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