$~41 to 44

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

\+ **ITA 1097/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX-2 ..... Appellant

Through : Mr Sanjay Kumar and Mr Rahul Chaudhary, Advocates.

versus

M/S GLOBAL REALTY CREATIONS LTD.

..... Respondent

Through : None.

\+ **ITA 1098/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX-2, AGRA

..... Appellant

Through : Mr Sanjay Kumar and Mr Rahul Chaudhary, Advocates.

versus

M/S GLOBAL HERITAGE VENTURE LTD.

..... Respondent

Through : None.

\+ **ITA 1099/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX-2, AGRA

..... Appellant

Through : Mr Sanjay Kumar and Mr Rahul Chaudhary, Advocates.

versus

M/S GLOBAL TELEVENTURE LTD. ..... Respondent

Through : None.

\+ **ITA 1100/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX-2, AGRA

..... Appellant

Through : Mr Sanjay Kumar and Mr Rahul Chaudhary, Advocates.

versus

M/S GLOBAL HERITAGE VENTURE LTD. ..... Respondent

Through : None.

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

O R D E R

% **04.12.2017**

CM No.43770/2017(exemption) in ITA No.1097/2017
CM No.43772/2017(exemption) in ITA No.1098/2017
CM No.43774/2017(exemption) in ITA No.1099/2017

Allowed, subject to all just exceptions.

ITA No.1097/2017 & CM No.43769/2017(delay in filing appeal for 20 days)
ITA No.1098/2017 & CM No.43771/2017(delay in filing appeal for 20 days)
ITA No.1099/2017 & CM No.43773/2017(delay in filing appeal for 20 days)
ITA No.1100/2017 & CM No.43775/2017(delay in filing appeal for 20 days)

1. In all these appeals, the Assessing Officer (A.O.), for Assessment Years 2003-2004 to 2004-2005 and 2005-2006, had brought to tax various amounts under Section 68 of the Income Tax Act, 1961(hereafter referred to as *'the Act'*).

2. In all these cases, the Assesses received notice under Section 153C after the premises of the third party, i.e. Rajdarbar Group, was searched on 31.07.2008.

3. The Assessee's cases were transferred under Section 127 of the Income Tax Act, 1961 and they were served notices sometimes in 2010 pursuant to which they filed returns. The CIT (Appeals) confirmed the additions made under Section 68 of the Act, by the Assessing Officer. The Assesses appeals were accepted. It was noticed by the Income Tax Appellate Tribunal (ITAT) that in the course of the search proceedings, nothing incriminating was found in the premises, which could have led to the additions made. On the contrary, in some of these Appeals, the Assessee's Returns, originally filed, had been scrutinized under Section 143(3) of the Act and the declarations with respect to share capital and/or unsecured creditors were accepted.

4. As a consequence, applying the ratio in *Commissioner of Income Tax versus Kabul Chawla*, 380 ITR 573 (Del.), the ITAT deleted the amounts brought to tax under Section 68 of the Act.

5. Since *Kabul Chawla (supra)* was the decision rendered by the Division Bench of this Court and the ITAT merely followed it, this Court is of the opinion that no substantial question of law arises.

6. The Appeals are, therefore, dismissed.

S. RAVINDRA BHAT, J

DECEMBER 04, 2017/'Sn' **SANJEEV SACHDEVA, J**