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

\+ ITA 283/2018 & CM APPL.9053-9054/2018

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL) - 1
..... Appellant

Through: Mr.Zoheb Hossain, Sr.Standing Counsel.

versus

M/S. SAKET APARTMENT (P) LTD. ..... Respondent

Through: Mr.Sameer Rohtagi, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **09.03.2018**

The Revenue appeals concurrent findings favouring the assessee in the course of search assessments completed under Section 153(C) of the Income Tax Act. A search was conducted in the premises of Shri Ram Hari Ram group of companies and Orchid group of companies. The premises of the assessee too were searched. Based upon the recoveries and seizures made, the notice under Section 153(C) was issued to the assessee which led to an addition of Rs.3 crores brought to tax in the hands of the assessee under Section 68. The Appellate Commissioner as well as the Tribunal upheld the assessee’s argument that the additions were made solely on the demands/statement of another search party Sh.Rajiv Gupta, who had offered additional income of Rs.50 crores in the course of statement made under Section 131 during the search. According to the lower appellate authorities the statement to the extent it attributed concealed income in the hands of the assessee could not have been relied upon without a proper opportunity and in any case could not be attributed to the assessee under Section 132(4).

This Court has considered the Revenue's submissions. Learned counsel has produced the statement of Sh.Rajiv Gupta and endeavoured to emphasise that the offer made by him, was over and above the disclosed income of the assessee.

This Court is of the opinion that the lower appellate authority's findings which are entirely factual do not warrant interference. Besides the statement made in the course of search proceedings would bind the party making it and cannot be attributed to a third party, who has to be afforded an opportunity of cross examination to substantiate the contents of the statement. Clearly those procedures were not followed in the present case nor was there any independent material to support the AO's conclusions.

No substantial question of law arises.

The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 09, 2018

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