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

\+ ITA 228/2018

PRINCIPAL COMMISSIONER OF INCOME TAX(CENTRAL)-2 ..... Appellant

Through Mr. Sanjay Kumar and Mr. Rahul Chaudhary, Standing Counsel.

versus

MAHESH MEHTA ..... Respondent

Through None.

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

O R D E R

% **23.02.2018**

In this appeal under Section 260A of the Income Tax Act, 1961 ('the Act'), the Revenue impugns the order of Income Tax Appellate Tribunal (ITAT), which set aside the additions made pursuant to scrutiny under Section 153A. The additions did not have any connection with recoveries made from the assessee's premises during search. In concluding that the additions were unjustified, the ITAT relied upon the judgment of this Court in *Commissioner of Income Tax vs. Kabul Chawla,* 380 ITR 573. It is urged that for the given assessment year i.e. 2004-05, which is the subject matter of the present appeal, the assessee for the first time pursuant to the notice under Section 153A disclosed cash in hand to the extent of ₹1,00,12,666/-. Consequently, this amount constitutes fresh material that was appropriately the subject matter of the assessment under Section 153A.

This Court notices that the search in the present case took place on 30.6.2009. The first block year therefore was 2004-05. The assessee undoubtedly disclosed cash in hand amounting to ₹1,00,12,666/- for the first time pursuant to the notice under Section 153A for the previous year i.e. cash in hand at the end of the previous year carried over to company's account balance for the current year. In that sense, this was the fresh disclosure, yet, in the overall scheme of the enactment, the addition made by the AO could not, in the opinion of the Court, have been sustained against the cash generated (previously not disclosed) related to the earliest prior block year (i.e. the cash related to AY 2003-04). Consequently, the additions could not have been sustained even otherwise.

For the above reasons, this Court is of the opinion that no substantial question of law arises. The appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 23, 2018

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