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

+ ITA 301/2018 & CM APPL. 9809/2018

PRINCIPAL COMMISSIONER OF INCOME TAX(CENTRAL)-
3 Appellant

Through: Mr. Sanjay Kumar, Standing
Counsel for Revenue.

versus

GAHOI CHEMICALS PVT. LTD. Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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14.03.2018

The Revenue is aggrieved by the ITAT's order made in ITA 3049/Del/2013 for A.Y. 2005-06, whereby, the additions made by the AO during the course of search have been deleted.

Search of the premises of one Kurele Group of companies/firms was conducted on 19.01.2009. Notice was issued on 30.11.2009 to which the assessee filed the return declaring a loss of ₹10,73,507/-. The AO brought to tax a sum of ₹1,05,00,000/- under Section 68 in the course of search assessment on the ground that for the relevant year the credit worthiness of the share applicant has not been established. The additions were confirmed by the Appellate Commissioner, but, directed to be

deleted by the Tribunal, which followed this Court's rulings in *Commissioner of Income Tax vs. Kabul Chawla*, 380 ITR 573 and *Commissioner of Income Tax vs. Meeta Gutgutia*, 395 ITR 526.

Since concededly the search assessment was completed not on the basis of fresh incriminating material seized or recovered in the search and seizure operation under Section 132 of the Income Tax Act, the AO relied upon the materials that were already on the record to form another opinion contrary to the view expressed in *Kabul Chawla*. Therefore, the Tribunal quite correctly directed the amounts sought to be brought to tax, be deleted. The appeal does not involve any question of law. It is accordingly dismissed. All the pending applications also stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 14, 2018
kks