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

\+ ITA 289/2018 and CM APPL. 9300/2018

PRINCIPAL COMMISSIONER OF INCOME TAX(CENTRAL)-3 ..... Appellant

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

versus

GAHOI CHEMICALS PVT. LTD. ..... Respondent

Through None.

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

O R D E R

% **12.03.2018**

The Revenue is aggrieved by the ITAT's order made in ITA 3050/Del/2013 for AY 2006-07, 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 ₹50 lacs 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 12, 2018
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