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

\+ ITA 161/2018

PRINCIPAL COMMISSIONER OF INCOME TAX DELHI-08 ..... Appellant

Through: Mr. Zoheb Hossain, Sr. Standing Counsel for the Revenue

versus

M/S S. CHAND & CO. LTD. ..... Respondent

Through: None

\+ ITA 162/2018

PRINCIPAL COMMISSIONER OF INCOME TAX DELHI-08, ... Appellant

Through: Mr. Zoheb Hossain, Sr. Standing Counsel for the Revenue

versus

M/S S. CHAND & CO. LTD. ..... Respondent

Through: None

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

<u>O R D E R</u>

% **09.02.2018**

The Revenue is aggrieved by two decisions of the ITAT which held that the opening of the assessment was unwarranted.

The assessee had filed the books for the relevant assessment year (AY-2007-2008) and closing stock in respect of work declared to be in progress; the assessments were completed. The assessment notice was issued entirely based upon the audit objection which pointed out that the evaluation of stock was based on mere reappraisal of the same record without any tangible material or information.

The CIT and ITAT both upheld the re-assessment notice but delayed the assessment, after examining it on merits.

The ITAT affirmed the CIT's opinion but held that the re-assessment was unwarranted and relied upon the judgment of the Supreme Court in *CIT Vs. PVS Beedis Pvt. Ltd.* 1998 (9) SCC 272.

This Court is of the opinion that these arguments are untenable in view of the subsequent decision of the Supreme Court in *CIT Vs. Kelvinator of India Ltd*, 320 ITR 561 (SC) with regard to the permissible framework within which the Revenue Authority can issue re-assessment notice.

Nevertheless, the Court has also considered all the relevant previous decisions especially in the light of the amendments to Section 147 which has also inserted Explanation 1.

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

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 09, 2018/P