$~27

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

\+ ITA 169/2018 & CM APPL.5356/2018

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

Through: Mr. Sanjay Kumar & Mr. Rahul Chaudhary, Standing Counsels for Revenue.

versus

SAMEER GUPTA ..... Respondent

Through: Mr. Pranjal Srivastava, Adv.

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

O R D E R

% **12.02.2018**

The Revenue is aggrieved by the setting aside of the search assessment – by the AO who brought to tax a sum of ₹5,62,61,726/- under Section 68 of the Income Tax Act, 1961 (hereafter referred to as "the Act"). The concurrent findings of the CIT(A) and the ITAT are that no incriminating materials were found during the course of the search that have resulted in a valid addition, in the search assessment. The Court notices that for a previous year A.Y. 2011-12, which too was covered by the same search assessment, the ITAT's decision has been upheld in *Principal Commissioner of Income Tax v. Sameer Gupta* (ITA

118/2018 decided on 02.02.2018). The Court notices that the Court had applied the rule in *Commissioner of Income Tax v. Kabul Chawla* 380 ITR 573. Since the present impugned order is part of the same search assessment but for a later year, the appeal is unmerited as the additions were made in the absence of any fresh incriminating material seized by virtue of *Kabul Chawla (supra).*

The appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 12, 2018
kks