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

\+ **ITA 170/2005**

THE COMMISSIONER OF INCOME TAX ..... Appellant

Through : Mr Ajit Sharma, Standing Counsel with Mr Ashish Jain, Advocate.

versus

GURSHARAN SINGH CHHABRA ..... Respondent

Through : Mr C.S.Aggarwal, Senior Advocate with Mr Prakash Kumar, Ms Pushpa Sharma and Mr Uma Shankar, Advocates.

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

O R D E R

% **05.07.2018**

The Revenue, in the present Appeal, under Section260A of the Income Tax Act, 1961 urges that the order of the Income Tax Appellate Tribunal (ITAT) directing a remand with respect to certain additions made by the Assessing Authority (i.e. the Deputy Commissioner in the present case) is justified.

The facts necessary to dispose of the Appeal are that the Assessee's premises were subjected to search and seizure on 15.09.1995; notice under Section 158 BC was thereafter issued. The Assessee filed its return for the block period of ten years in question.

The learned Deputy Commissioner considered the materials on record and added various amounts. The Tribunal, however, set aside some of those additions – the substantial one being the sum of Rs.83,82,300/- on the ground that the bank account statements were not furnished to the Assessee during the proceedings. On some of these issues, the ITAT directed a remand.

It is urged that the Tribunal fell into an error in setting aside the addition on account of unexplained cash brought to tax under Section 68 of the I.T. Act.

Learned counsel submitted that bank account statements were not furnished. The remedy was available and could have gone into. Learned counsel further submitted that the statement was matter of the record and was correctly considered by the Assessing Officer. It was submitted with respect to the other amount that was brought to tax. The Assessee's explanation regarding the amounts received could not have been accepted and could not have been the subject-matter of the remand.

The ITAT, while considering the addition of Rs.83,82,300/-, noticed that the bank account statements were not furnished to the Assessee during the course of the proceedings; furthermore the bank account statements were not seized under Section 131 but were rather requisitioned by the Account of the Assessing Officer.

This is apparent from the reading of the Statement recorded by the Assessing Officer; in answer to specific queries, the Assessee clearly stated that he had no knowledge of that statement and that in the absence of being supplied with them, he disclaimed the amounts.

It is, therefore, quite clear that the bank account statements were not the subject-matter of the Assessing Officer. Thus, on an application of the law declared by this Court in *Commissioner of Income Tax versus Kabul Chawla*, 380 ITR 573, the additions could not have been sustained.

As far as the remand, vis-a-vis the other issues are concerned, the Court is of the opinion that no question of law arises; the ITAT took the route of caution in the proceedings to require a fresh appreciation of the evidence by the Assessing Officer. During the hearing, this Court was informed that the remand proceedings are not yet concluded and in fact have not been taken up.

In light of the above discussion, the Assessing Authority, i.e. the concerned Deputy Commissioner is hereby directed to conclude the remand proceedings within four months from today.

The Appeal is dismissed subject to the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 05, 2018/'ऋ'