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

\+ ITA 366/2018

DISCOVERY ESTATES PVT. LTD. ..... Appellant

Through : Sh. Satyen Sethi and Sh. Arta Trana Panda, Advocate, for appellant.

versus

PR. COMMISSIONER OF INCOME TAX-XIII, & ANR. ..... Respondents

Through : Sh. Ruchir Bhatia, Advocate, for respondent.

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

**O R D E R**

**% 02.04.2018**

The question of law sought to be urged in this appeal is whether the rental from unsold shops, which the appellant claimed as 'stock-in-trade' could be taxed as 'income from house property' and not under the 'profits and gains of business', as claimed?

The records indicate that the Tribunal followed the previous ruling of this Court in *CIT v. Discovery Estates Private Ltd.* 2013 (356) ITR 159. That was in the previous AY 2006-07. This appeal pertains to AY 2010-11. This Court is informed that the appeal by special leave petition is listed along with the batch of appeals arising out of the judgment of this Court in *CIT v. Ansal Housing Finance and Leasing Co. Ltd.* 2013 (354) ITR 180 before the Supreme Court.

In these circumstances, the Court is of the opinion that the previous ruling in the assessee's case would bind it. The Tribunal did not commit any error in following that previous order of this Court. However, it is also clarified that in any event, the parties shall be finally bound on the question of law by the judgment/ruling of the Supreme Court in the pending batch of appeals and the special leave petitions. The petition is dismissed subject to the above observations.

**S. RAVINDRA BHAT, J**

**A. K. CHAWLA, J**

**APRIL 02, 2018/ajk**