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

\+ ITA 119/2018

PR.COMMISIONER OF INCOME TAX-1 ..... Appellant

Through: Mr. Ashok K. Manchanda, Sr. Standing Counsel for the Income Tax Department.

versus

KUSUM LATA GARG ..... Respondent

Through: Mr. Sudesh Garg, Advocate.

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

O R D E R

% 06.04.2018

CM APPL. 4015-4016/2018 *(for condonation of delay)*

For the reasons mentioned in the applications, the delay in filing and re-filing the present appeal is hereby condoned.

The present applications stand disposed of.

CM APPL. 4017/2018 *(for exemption)*

Allowed subject to all just exceptions.

ITA 119/2018

The Revenue's appeal questions the decision of the Income Tax Appellate Tribunal (ITAT) which confirmed the findings of the CIT(A) and held that the additions made on account of the search conducted in July, 2008, could not be sustained.

Mr. Manchanda, learned Sr. Standing Counsel for the Revenue urges that there was incriminating material which enabled the assessee to return the findings and add income at the hands of the assessee and that the lower Appellate Authorities fell into error in holding otherwise and relying upon the judgment in the case of *'Commissioner of Income Tax (Central)-III vs. Kabul Chawla*', 380 ITR 573.

It is next urged that the assessment year in question (2006-07) has not abated as yet and consequently the Revenue had no occasion to consider the materials except in the case of the search assessment.

So far as the question with respect to the applicability of *Kabul Chawla* (supra) is concerned, the Court notes that the ITAT did not advert to any material that could be relatable to the amounts he brought to tax in the search proceedings.

Furthermore, the Court notes that the returns were filed by the assessee on time; the Revenue had time till end September to issue the notice under Section 142(2) of the Income Tax Act; it did not. In the facts and circumstances, the question sought to be urged at this stage does not arise.

The Court is of the opinion that the lower Appellate Authorities did not commit any error in following the judgment in *Kabul Chawla* (supra). No question of law arises.

The appeal is dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 06, 2018/nn