$~6 to 8

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

\+ **<u>ITA 572/2017</u>**
\+ **<u>ITA 573/2017</u>**
\+ **<u>ITA 575/2017</u>**

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2 ..... Appellant

versus

CHINTELS INDIA LTD. ..... Respondent

Through : Sh. Rahul Chaudhary, Sr. Standing Counsel with Sh. Sanjay Kumar, Jr. Standing Counsel, for Revenue.
Sh. Ajay Vohra, Sr. Advocate with Sh. Rohit Jain and Sh. Aniket. D. Agrawal, Advocates, for respondent.

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

<u>O R D E R</u>
% 11.01.2018

<u>ITA 573/2017 & ITA 575/2017</u>

Admit.

The following question of law arises for consideration:

"Did the Income Tax Appellate Tribunal (ITAT) err in its appreciation of Section 271(1)(c) of the Income Tax Act, 1961 read with Explanation 1 in deleting the penalty concurrently imposed upon the assessee/respondent in the circumstances of the case?"

Sh. Rohit Jain, Advocate accepts notice of appeal. List on 03.04.2018, for disposal.

ITA 572/2017

In this case, the deletion of penalty directed by the ITAT has been questioned. The Court is informed that in ITA 581/2016 [*Chintels India Ltd. v. DCIT* (which is part of the common order of 19.07.2017)], the assessment was quashed on the ground that no notice was issued to the assessee beyond the stipulated statutory period under Section 143(2) of the Income Tax Act, 1961.

Since the assessment was nullified as it were, this Court is of the opinion that the penalty which is merely consequential could not have survived. As such, no question of law arises. ITA 572/2017 is accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 11, 2018/ajk