$~25 to 34

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

\+ ITA 29/2018 & CM Nos.1235-1237/2018

PR. COMMISSIONER OF INCOME TAX – 7 ..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 30/2018 & CM Nos.1238-1240/2018

PR. COMMISSIONER OF INCOME TAX – 7 ..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 31/2018 & 1241-1243/2018

PR. COMMISSIONER OF INCOME TAX – 7 ..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 32/2018 & CM Nos.1244-1246/2018

PR. COMMISSIONER OF INCOME TAX – 7 ..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 33/2018 & CM Nos.1247-1249/2018

PR. COMMISSIONER OF INCOME TAX – 7 ..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 34/2018 & CM Nos.1254-1256/2018

PR. COMMISSIONER OF INCOME TAX – 7 ..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 35/2018 & CM Nos.1257-1259/2018

PR. COMMISSIONER OF INCOME TAX - 7

..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 36/2018 & CM Nos.1260-1262/2018

PRINCIPAL COMMISSIONER OF INCOME TAX-7

..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 37/2018 & CM Nos.1263-1265/2018

PR.COMMISSIONER OF INCOME TAX-7

..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

\+ ITA 38/2018 & CM Nos.1266-1268/2018

PR. COMMISSIONER OF INCOME TAX - 7

..... Appellant

versus

M/S RAINBOW POWDER COATERS PVT. LTD.

..... Respondent

Present: Mr. Sanjay Kumar with Mr. Rahul Chaudhary,
Standing Counsels for appellant.
None for respondent.

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

O R D E R

% **12.01.2018**

1. In these appeals, the common question urged by the Revenue that the ITAT fell into error in not appreciating the facts and the circumstances pertaining to the assessee – M/s Rainbow Powder Coaters Pvt. Ltd. but rather went by the facts in M/s Pranjal Overseas Pvt. Ltd.

2. The ITAT held that the additions made, under Section 153A of the Income Tax Act, 1961 (hereafter referred to as 'the Act'), pursuant to search under Section 132 of the Act are invalid. In so holding, the ITAT concluded that the premises searched did not belong to the assessee. The Revenue, on the other hand, had contended that the assessee had declared the premises to be at its address at Lawrence Road, Keshav Puram, New Delhi-110035 which was discovered to be a small residential flat. According to the Revenue, this itself was sufficient to carry out proceedings under Section 153A and conclude a search assessment. The ITAT held that the mere circumstance that the assessee was not at the address declared *per se* did not constitute an incriminating material or circumstance to warrant a search assessment. That finding is impeached. The Court notices that firstly these appeals are barred by about 671 days. The explanation is that the appeals were filed electronically and that on account of the transition in procedure, the Revenue Department underwent lot of difficulties in handling the matters with it. The application also states that the appeals

were returned with several objections that were not attended to and that the re-filing took place after about 671 days. However, in the opinion of the Court, these explanations are not justified or reasonable so as to constitute sufficient cause.

3. This Court, furthermore, is of the opinion that on the merits too, *arguendo* the acceptance of the Revenue's contentions with respect to justification of the search assessment (on the basis that the declared premises were other than what was found during the search) does not justify the addition. This is because concededly no incriminating document or fresh material was discovered in the search.

For the above reasons, the applications for condonation of delay and the appeals are dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 12, 2018
kks