$~19, 22 & 23

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

\+ **ITA 7/2018, C.M. APPL.529/2018**

\+ **ITA 10/2018, C.M. APPL. 439/2018**

\+ **ITA 11/2018, C.M. APPL. 440/2018**

PRINCIPAL COMMISSIONER OF INCOME TAX-21... Appellant

versus

SURESH JAIN ..... Respondent

Through : Sh. Sanjay Kumar and Sh. Rahul Chaudhary, Standing Counsel, in Item Nos.19, 22 & 23.

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

O R D E R

% 08.01.2018

The Revenue is aggrieved by a common order of the Income Tax Appellate Tribunal (ITAT) which concerned the assessment completed pursuant to a search under Section 153A of the Income Tax Act, 1961 [hereafter "the 1961 Act"]. The Assessing Officer's (AO) decision based upon the search assessment was interfered with by the CIT(A) and upheld concurrently by the ITAT which was of the opinion that the additions made were beyond the scope of the provisions of the 1961 Act inasmuch as they did not concern anything over and above the original assessment concluded for the relevant years. In so holding the CIT(A) and the ITAT relied upon *CIT v. Kabul Chawla* 380 ITR 573.

So far as AY 2006-07 was concerned, the assessment was in effect a regular one since that was in respect of a year in which the search was made. In this year, an amount of ₹40 lakhs was brought to tax under Section 69A of the 1961 Act as it reflected cash recovered from the assessee's locker. The AO's decision was appealed against to the CIT(A) who sought a remand report pursuant to which a finding was rendered that the amount was what the assessee had in fact obtained pursuant to a declared sale. The AO's order had noticed the assessee's submission but had not taken into account the documents and materials on record which showed that the amount was in fact reflected in the materials furnished during the assessment proceedings. The CIT(A), therefore, reversed the AO's order. That order was upheld by the ITAT.

As is evident from the above narrative, the ITAT – at least so far as two search orders were concerned, applied *Kabul Chawla (supra)*. No question of law arises. So far as the current year 2006-07 is concerned, the ITAT merely affirmed the findings of fact based upon materials on record rendered by the CIT(A). Therefore, no question of law arises. The appeals are consequently dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 08, 2018/ajk