$~1 & 2

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

\+ **<u>ITA 112/2018 & CM APPL. 4000/2018</u>**

<u>ITA 113/2018 & CM APPL. 4001/2018</u>

SHRI JAI KISHAN GOEL ..... Appellant

Through Dr. Rakesh Gupta, Mr. Somil Agarwal, Ms. Manika Ghai and Mr.Rohit Kumar Gupta, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX ..... Respondent

Through Mr. Zoheb Hossain, Sr. Standing Counsel with Mr. Deepak Anand, Jr. Standing Counsel.

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

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

% **03.04.2018**

The assessee's grievance in this appeal is that the ITAT's order impugned in the proceedings has made certain adverse remarks which impinges on his conduct and action.

The controversy was whether the Assessing Officer had issued a notice returnable on 16.11.2007. The assessee alleges that the notice in fact received by him reflected 26.11.2007 as the returnable date. The AO brought to tax certain amounts under Section 68 in the ex-parte best judgment assessment under Section 144; the assessee succeeded before the CIT(A). The Revenue's appeal to the ITAT was allowed. In the course of the order, the ITAT made certain observations with respect to the assessee's submissions about the date of the notice; imputing motives to him. The assessee sought rectification of those observations under Section 254(2); his attempts on this score were unsuccessful because the application was dismissed.

This Court has considered the materials on record and heard the counsel for the parties.

Adverse inferences drawn by the Tribunal, having regard to the totality of the circumstances do not appear to be warranted or justified. Accordingly, its observations with respect to conduct and allegations with respect to the tampering of the notice so far as it pertains to the date are hereby directed to be expunged.

The appeals are disposed of in the above terms. All the pending applications are also disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 03, 2018

rc