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

\+ ITA 457/2018 & CM APPL. 14548-49/2018

USHA SHARMA ..... Appellant

Through: Mr. Ankur Sharma, Advocate.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI ..... Respondent

Through: Mr. Ruchir Bhatia, Advocate.

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

O R D E R

% **16.04.2018**

The assessee's grievance in her appeal is with respect to the Revenue's order treating her to be "an assessee in default" under Section 201 of the Income Tax Act, 1961 (hereinafter 'the Act').

The assessee had purchased a flat, the owner of which was a Non-Resident Indian (NRI). However, the consideration paid was not subjected to TDS. The Assessing Officer and other Revenue Authorities, including the Income Tax Appellate Tribunal, held that the assessee was obliged under Section 195 of the Act to deduct the TDS, which she did not.

The assessee's argument before this Court is that the Revenue has proceeded on an entirely erroneous premise and that the amount was never withheld as TDS. Besides it is contended that the assessee has been subjected to hardship measures, including attachment of her properties and accounts that the rates of interest are excessive. This Court is of the opinion that no question of law arises for consideration in this appeal. At the same time, the Court is also of the opinion that the assessee should approach the Revenue authorities for waiver/rejection of interest. In case the request is made within four weeks, the Commissioner of Income Tax shall consider her request reasonably and pass an appropriate order. In a similar manner, the Revenue authorities shall also consider the issue of recovery in a reasonable and fair manner, given that the tax liability is of the concerned NRI (who appears to have entered the other transactions of purchasing properties).

The appeal is dismissed as it does not involve any substantial question of law but subject to above conditions. Pending applications accordingly stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 16, 2018
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