**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO.1441 OF 2016**

Principal Commissioner of
Income Tax (Central)-4 … Appellant
V/s.
M/s Manav Builders Pvt. Ltd. … Respondent

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Mr.Tejveer Singh for the Appellant.
Mr.Ravindra Poojary i/by Mr.Ajaykumar Singh for the Respondent.

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**CORAM : AKIL KURESHI AND**
**M.S.SANKLECHA, JJ.**
**DATE : JANUARY 22, 2019.**

**P.C.:-**

1. Revenue has challenged the judgment of the Income Tax Appellate Tribunal. Following question is urged before us :

> "Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in deleting the addition on account of estimation of profit on sales not recorded in the books of accounts, without appreciating the fact that as per provisions of section 132(4A), the presumptions are that (a) the seized documents found in the premises of the assessee belong to the assessee and (b) the contents of the seized documents are true and that the assessee had failed to rebut the above presumptions?

2. Learned counsel for the parties point out that such issue came for our consideration before this Court in Income Tax Appeal No.980 of 2016 and connected appeals. These appeals arose out of composite order of the Tribunal which is impugned in the present appeal also. While dismissing those appeals the Court in its order dated 8th January, 2019 has made following observations:-

> "2. The respondent assessed is a limited Company and is engaged in the business of construction. The assessee was subjected to search and seizure operation carried out by the Revenue Authorities on 10th August, 2006 pursuant to which notice under Section 153A of the Income Tax Act, 1961 ("the Act" for short) was issued. The Assessing Officer made additions relying on the documents seized during search and the statements of witnesses recorded. The Assessee carried the matter in appeal. The Commissioner (Appeals) deleted the additions. This was done after calling remand report on certain specific issues. The Revenue carried the appeal in appeal before the Tribunal. The Tribunal confirmed the view of the Commissioner by a detail order which is challenged before us by the Revenue.
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> 3. Having heard the learned counsel for the parties and having perused the documents on record, we are of the view that the Tribunal has arrived at conclusions which are purely factual in nature. The Tribunal concurrently came to the conclusion that there was no evidence in support of the additions made by

> the Assessing Officer which was collected during search operations. The documents relied upon by the Assessing Officer did not clearly bring about the on money transactions. During the remand report the parties to whom the property was sold were examined who clarified that no cash payments were made by the Assessee bringing on record no contrary material. In the absence of any perversity in the factual findings of the Tribunal, we see no question of law arises. In the result, the Appeals are therefore dismissed."

3. In the result, the appeal is dismissed.

**(M.S.SANKLECHA,J.)** **(AKIL KURESHI,J.)**

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