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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **ITA 561/2019**

THE PR. COMMISSIONER OF INCOME TAX -CENTRAL-1... Appellant
Through: Mr Ruchir Bhatia, Senior Standing Counsel for the Revenue.

versus

VARUN BEVERAGES LTD. ..... Respondent
Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

<u>O R D E R</u>
% **02.07.2019**

<u>CM 28971/2019 (exemption)</u>

1. Allowed, subject to all just exceptions.

<u>ITA 561/2019</u>

2.The present appeal is directed against the order dated 20th November, 2018 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.864/Del./2015 for the Assessment Year ('AY') 2010-11.

3. The challenge by the Assessee to the assessment under Section 153-A of the Income Tax Act, 1961 ('IT Act') following a search and seizure operation under Section 132 of the IT Act carried out on M/s Jaipuria Group on 27th March, 2012 was on the ground that no incriminating material had been found against the Assessee during the course of the search.

4. The Commissioner of Income Tax (Appeals) ['CIT (A)') agreed with the

Assessee on merits and quashed the assessment under Section 153-A of the IT Act. When the matter reached the ITAT at the instance of the Revenue, it dismissed the appeal following the decision of this Court in ***Commissioner of Income-tax (Central)-III v Kabul Chawla (2016) 380 ITR 573 (Del)***.

5. The Court is informed by learned counsel for the Revenue that although the Revenue's appeal in the case of ***Commissioner of Income-tax (Central)-III v Kabul Chawla*** (*supra*) was dismissed by the Supreme Court on the ground of monetary limit of the tax effect involved, the correctness of the said judgment is in question in other appeals filed by the Revenue in the Supreme Court. Nevertheless, the Court is informed that there has been no stay of the operation of the judgment of this Court in ***Commissioner of Income-tax (Central)-III v Kabul Chawla*** (*supra*).

6. Since the ITAT has followed the decision of this Court in ***Commissioner of Income-tax (Central)-III v Kabul Chawla*** (*supra*), which holds good as of date and has not been stayed by the Supreme Court, this Court sees no reason to interfere with the impugned order of the ITAT.

7. No substantial question of law arises in the present appeal and the same is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 02, 2019
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