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

\+ ITA 1402/2018 & C.M. No. 51374/2018

THE PR. COMMISSIONER OFINCOME TAX -3

..... Appellant

Through: Mr. Sunil Agarwal, Mr. Tushar Gupta and Mr. Akash Pratap Singh, Advs.

versus

DLF HOME DEVELOPERS LTD

..... Respondent

Through: Ms. Kavita Jha and Ms. Devika Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **19.02.2020**

On 14.12.2018, the Court had passed the following order:

"Learned counsel for the respondent/assessee has submitted that the entire income of project was brought to tax in the assessment year 2007-08 as the respondent/assessee was following the project completion method. It is also stated that the contract had commenced in the assessment year 2003-04 and in the assessment year 2004-05 also no addition was made. Principal Commissioner being the appellant would examine the aforesaid contention and file an affidavit in this regard within four weeks from today. Re-list on 15th March, 2019."

In pursuance of that order, an affidavit has been prepared on behalf of the appellant sworn by Dr. Banwari Lal, the Principal Commissioner of Income Tax – 3, Delhi.

An unattested copy of that affidavit has been tendered in Court by learned counsel for the appellant. He states that he shall be filing the duly attested affidavit in the Registry by tomorrow. In this affidavit, the respondents have, inter alia, stated as follows:

> "*(i) That the respondent assessee had claimed before the assessing officer during scrutiny proceedings that 100% revenue was offered to tax in assessment year 2007-08 on the basis of Project Completion Method and there is no adverse comment of Assessing officer on this account in the assessment order passed.*
> *(ii) That the respondent/assessee was following the project completion method.*
> *(iii) That the contract had commenced in assessment year 2003-04.*
> *(iv) That no addition was made in assessment year 2003-04 on account of disputed issue. However in assessment year 2004-05, no scrutiny assessment was made.*"

In view of the aforesaid position, the questions of law raised by the appellant do not arise for consideration in the present appeal.

The appeal is, accordingly, dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

FEBRUARY 19, 2020
N.Khanna