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

+ **ITA 57/2022**

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-2

..... Appellant

Through Mr. Sanjay Kumar with
Ms. Easha Kadian, Advocates.

versus

S.S. CON BUILD PVT. LTD.

..... Respondent

Through None.

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Date of Decision: 22nd March, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present appeal has been filed challenging the order dated 18th February, 2021 passed by Income Tax Appellate Tribunal [ITAT] in ITA No. 6447/Del/2015 for the Assessment Year 2006-07.

2. Learned counsel for the Appellant states that ITAT has erred in deleting the addition of Rs.7,00,00,000/- made by the Assessing Officer under Section 68 of Income Tax Act, 1961 (for short 'the Act') relying upon the judgment of this Court in *CIT vs Kabul Chawla*, [2016] 380 ITR 573. He states that ITAT has further erred in deleting the addition on the issue of jurisdiction under Section 153A of the Act without adverting to the facts and merits of the addition.



3. He emphasises that ITAT was not justified in law in not appreciating the fact that in the first round the case was remanded back to the Assessing Officer for fresh adjudication on merits of the addition. He further states that ITAT has erred in not considering that in the first round of litigation the issue of jurisdiction was not decided and the additions were decided/remanded back on merits of the addition.

4. Admittedly, the present case is covered by the decision of the Division Bench in *CIT vs Kabul Chawla* (supra), as the additions were not based on the seized material.

5. Further, it is settled law that the issue of jurisdiction goes to the roots of the cause and such an issue can be raised at any belated stage of the proceeding including appeal. (See: *Kanwar Singh Saini vs High Court of Delhi*, (2012) 4 SCC 307 and *M/s Mavany Brothers vs. CIT*, 2015 SCC Online Bom 1686.

6. Consequently, this Court is of the view that no substantial question of law arises for consideration in the present appeal. Accordingly, the present appeal is dismissed.

न्यायमेव जयते

MANMOHAN, J

DINESH KUMAR SHARMA, J

MARCH 22, 2022
AS