$~23

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

\+ ITA 149/2022

PCIT-1, NEW DELHI ..... Appellant

Through: Mr. Abhishek Maratha, SSC with Mr. Parth Semwal, Ms. Nupur Sharma, Advs.

versus

M/S COUNTRYWIDE PROMOTERS PVT. LTD. ..... Respondent

Through: Mr. Piyush Kaushik, Mr. Tanveer Zaki, Advs.
Mr. Gaurav Gupta, Sr. SC with Mr. Shivendra Singh, Mr.Puneet, Ms. Mahima, Ms. Deepika, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **13.02.2024**

1. The appellant in the instant appeal questions the view expressed by the Income Tax Appellate Tribunal ["**ITAT**"] in the impugned judgment dated 14 February 2020. The questions of law which are proposed for our consideration are the following: -

> "a. Whether on the facts and circumstances of the case Hon'ble ITAT was legally justified in accepting the additional ground raised by assessee/considering that the same ground was not raised before A.O. or CIT(A)?
>
> b. Whether the Hon'ble ITAT was legally justified in not discussing the additions made by A.O. on the basis of seized documents?
>
> c. Whether on the facts and circumstances of the case Hon'ble ITAT was legally justified in not appreciating the fact that on the same issue the department has filed an SLP in the case of Raj Buildworth Pvt Ltd?"

2. However, what has been canvassed for our consideration by Mr. Maratha, learned counsel for the appellant, was the validity of the action of the ITAT in permitting the assessee to raise a jurisdictional challenge to the invocation of Section 153C of the Income Tax Act, 1961 ["**Act**"].

3. We note that nothing precludes the ITAT from permitting the raising of an additional ground which would strike at the root of the assessment exercise. Once a jurisdictional question stood raised, it was always open for the ITAT to permit the same being canvassed before it.

4. In view of the aforesaid, we find no error in the view as taken by the ITAT. We find that the appeal raises no substantial question of law. Consequently, it shall stand dismissed.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 13, 2024/neha