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

+ **W.P.(C) 9016/2014**

COMMISSIONER OF INCOME TAX CENTRAL II Petitioner
Through: Mr.Ashok K.Manchanda, Sr.Standing
Counsel with Mr.Raghvendra Singh, Advocate.

Versus

RAHEJA BUILDERS PVT. LTD. & ANR Respondents
Through: Mr.Prakash Kumar, Advocate with
Mr.Arpit Shukla, Ms.Roshni Williams, Advocates.

+ **W.P.(C) 9411/2014**

COMMISSIONER OF INCOME TAX CENTRAL II Petitioner
Through: Mr.Ashok K.Manchanda, Sr.Standing
Counsel with Mr.Raghvendra Singh, Advocate.

Versus

RAHEJA BUILDERS PVT. LTD. & ANR. Respondents
Through: Mr.Prakash Kumar, Advocate with
Mr.Arpit Shukla, Ms.Roshni Williams, Advocates.

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH**

ORDER

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21.07.2017

1. The Revenue has filed these writ petitions challenging the impugned order dated 27th June, 2013 passed by the Income Tax Settlement Commissioner (ITSC) to the extent that it has granted immunity from prosecution as well as the penalty to the Respondents.



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2. Although in the course of the proceedings before the ITSC, based on the report submitted on behalf of the Revenue, an addition beyond what was originally disclosed by the Assessee was made, the order of the ITSC determining the amount payable by the Respondents was not challenged by them.

3. The grievance of the Revenue is that the ITSC granted the Respondents immunity from penalty and prosecution without recording its satisfaction that there has been a full and true disclosure of the income as well as the manner in which such income has been derived by the Respondents. It is submitted this was mandatory condition in terms of Section 254H (1) of the Income Tax Act 1961 ('Act').

4. Both the sides have placed reliance on the decision of this Court in *Commissioner of Income Tax (Central)-II v. BDR Builders and Developers (2016) 385 ITR 111 (Del.)*.

5. In the aforesaid decision, this Court, in similar circumstances, set aside the order of the ITSC granting immunity from prosecution and penalty and remanded the matter to the ITSC for a fresh decision in accordance with law.

6. Following the said decision, the impugned order of the ITSC to the extent it has granted the Respondents immunity from penalty and prosecution is hereby set aside and the matter is remanded to the ITSC for a fresh decision on that question in accordance with law in that regard.



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7. The matter be listed for directions before the ITSC on 30th August, 2017.

8. The petitions are disposed of in the above terms.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a small 'h'.

S.MURALIDHAR, J

A handwritten signature in black ink, written in a cursive style, appearing to read 'Prathiba M. Singh'.

PRATHIBA M. SINGH, J

JULY 21, 2017
'anb'



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9411/2014

COMMISSIONER OF INCOME TAX (CENTRAL)-IIPetitioner
Through: Mr. Raghvendra Singh and Mr.
Ashok Manchanda, Advocates

versus

STANDARD FARMS PVT. LTD. Respondent
Through: Mr. Prakash Kumar, Advocate

CORAM:

JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

ORDER

% 19.09.2017

CM APPL. 34374/2017 (for correction in cause title) in W.P.(C) 9411/2014

1. For the reasons stated therein, this application is allowed.

2. The cause title of the order dated 21st July, 2017 shall read as under:

COMMISSIONER OF INCOME TAX (CENTRAL)-IIPetitioner
Through: Mr. Raghvendra Singh and Mr.
Ashok Manchanda, Advocates

versus

STANDARD FARMS PVT. LTD. Respondent
Through: Mr. Prakash Kumar, Advocate

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 19, 2017

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