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

+ ITA 1036/2017

PR. COMMISSIONER OF INCOME TAX-5 ..... Appellant

Through: Mr. Rahul Chaudhary, Sr. Standing  
Counsel with Mr. Sanjay Kumar, Jr.  
Standing Counsel

versus

L. D. CRYSTALS PVT. LTD. .... Respondent

Through: None.

+ ITA 1042/2017

PR. COMMISSIONER OF INCOME TAX-5 ..... Appellant

Through: Mr. Rahul Chaudhary, Sr. Standing  
Counsel with Mr. Sanjay Kumar, Jr.  
Standing Counsel

versus

L.D. CRYSTALS PVT.. LTD. .... Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**ORDER**

**% 22.11.2017**

**CM No. 42256/2017 (Exemption) in ITA 1042/2017**

Allowed, subject to all just exceptions.

**CM No. 42257/2017 (condonation of delay) in ITA 1042/2017**

For the reasons stated in the application, the delay in re-filing  
the appeal is condoned. The application stands disposed of.



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ITA 1036/2017 & ITA 1042/2017

In these appeals under Section 260A of the Income Tax Act, the assessee was subjected to search proceedings and later the assessment was completed under Section 253A and substantial amounts were added in the assessment made.

The ITAT ultimately held that the additions were not justified, on application of the interpretation to the provisions in '*Commissioner of Income Tax Vs. Kabul Chawla*', 380 ITR 573 (Del.).

Since no incriminating material was seized during the search, the Court in '*Kabul Chawla*', 380 ITR 573 (Del.) had ruled that in the absence of any incriminating material, the assessment finalized originally could not be reopened.

Having regard to the above circumstances, there is no merit in the appeal. The appeals are dismissed.

  
S. RAVINDRA BHAT, J

  
SANJEEV SACHDEVA, J

NOVEMBER 22, 2017

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