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

\+ **ITA 691/2018**

PR. COMMISSIONER OF INCOME TAX – 1 ..... Appellant
Through: Mr. Zoheb Hossain, Sr. Standing counsel with Mr. Piyush Goyal, Advocates

versus

ASHWANI KUMAR AND CO.PVT.LTD ..... Respondent
Through: Mr. Rakesh Mukhija with Mr. Ankit Sharma, Advocates

\+ **ITA 694/2018**

PR. COMMISSIONER OF INCOME TAX – 1 ..... Appellant
Through: Mr. Zoheb Hossain, Sr. Standing counsel with Mr. Piyush Goyal, Advocates

versus

ASHWANI KUMAR AND CO.PVT.LTD ..... Respondent
Through: Mr. Rakesh Mukhija with Mr. Ankit Sharma, Advocates

**CORAM:**
**JUSTICE S.MURALIDHAR**
**JUSTICE I.S.MEHTA**

**ORDER**

**% 21.05.2019**

1. ITA No. 691/2018 is an appeal by the Revenue against an order dated 30th November, 2017 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 3558/Del/2013 for the Assessment Year (AY) 2009-2010. ITA No.

3558/Del/2013 was an appeal by the Assessee before the ITAT.

2. As far as ITA No. 694/2018 is concerned, this again is by the Revenue directed against the same order dated 30th November, 2017 passed by the ITAT in ITA No. 3557/Del/2013, which again was the Assessee's appeal for the Assessment Year 2007-2008.

3. From a perusal of the impugned order of the ITAT it is seen that as far as the Assessee's Appeal ITA No. 3557/Del/2013 is concerned, the Assessee had raised grounds 2 & 4 in the said appeal which the ITAT found were not taken either before the Assessing Officer (AO) or the Commissioner of Income Tax (Appeals) [CIT (A)] on the validity of the re-opening of the assessment under Section 147 and also challenging the power of the authority for sanctioning notices under Section 148 of the Act. In para 12 of the impugned order, the ITAT remanded the matter to the file of the AO for a fresh adjudication on the above issues.

4. As far as the Assessee's Appeal ITA No. 3558/Del/2013 is concerned, here again the ITAT remanded the matter to the AO to examine the documents sought to be produced by the Assessee to prove the identity, genuineness and creditworthiness of the share Applicants who purportedly contributed share application money to the Assessee in the sum of Rs. 90 lakhs.

5. The Court is now informed that pursuant to the above remands on 31st December, 2018 the AO has passed separate orders for the AYs 2007-2008

and 2009-2010 again answering the said issues against the Assessee.

6. In that view of the matter, the present appeals have been rendered infructuous and are dismissed as such.

**S. MURALIDHAR, J.**

**I.S. MEHTA, J.**

**MAY 21, 2019**
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