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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
12.
\+ **ITA 135/2001**

COMMISSIONER OF INCOME TAX, DELHI ..... Appellant

Through: Mr Ashok Manchanda, Senior Standing Counsel with Ms Vibhooti Malhotra, Junior Standing Counsel.

versus

M/S MODI RUBBER LTD. ..... Respondent

Through: Ms Kavita Jha and Mr Vaibhav Kulkarni, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **03.02.2016**

1. By an order dated 6th December, 2001, the Court framed the following substantial question of law for determination in this appeal by the Revenue against the order dated 31st August, 2000 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.6080/Del/1995 for the Assessment Year ('AY') 1998-99.

> "Whether the ITAT was justified in holding that the assessee is entitled to re-compute carry forward losses and allowances which have been set-off while calculating income under the normal provisions, on the ground that its income is taxable u/s 115J of the Income Tax Act, 1961 ?"

2. The above question stands answered in favour of the Revenue and against the Assessee by the decision of the Supreme Court in ***Karnataka Small Scale Industries Development Corpn. Ltd. v. Commissioner of Income Tax (2002) 258 ITR 770 (SC).*** Accordingly, the impugned order of the ITAT is set aside to the above extent.

3. The appeal is disposed of by answering the question in the negative i.e. in favour of the Revenue and against the Assessee.

S.MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 03, 2016
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