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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ITA 380/2004

COMMISSIONER OF INCOME TAX DEL Appellant
Through: Mr. Rahul Chaudhary, Senior Standing
counsel.

versus

M/S MGF INDIA LTD. Respondent
Through: Mr. Satyen Sethi, Advocate with
Mr. Arta Trana Panda, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER
% **12.01.2016**

1. This appeal by the Revenue is directed against the order dated 13th November 2003 passed by the Income Tax Appellate Tribunal ('ITAT') in an application filed by the Assessee under Section 254 (2) of the Act seeking recall of the order passed by it on 13th August 2003 in ITA No. 1143(Del)/2002 for the Assessment Year 1998-99.

2. By the said order dated 13th November 2003, the ITAT accepted the plea of the Assessee that while deciding the aforementioned appeal by its order dated 13th August 2003, it had omitted to deal with an additional ground which had been admitted by it by order dated 5th March 2003. Consequently, only for the limited purposes for adjudicating the said additional ground, the ITAT had recalled its earlier order dated 13th August 2003.

3. The Court finds nothing erroneous in the ITAT recalling its earlier order only for the purposes of adjudicating the additional ground which has been missed out by it while deciding the appeal.

4. It may also be noticed that against the decision of the ITAT in relation to the said additional ground, the Revenue has already filed an appeal being ITA No. 378 of 2004, which is pending consideration.

5. Consequently, no substantial question of law arises in the present appeal. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JANUARY 12, 2016
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