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

24.

\+ **ITA 403/2008**

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

versus

THE MOTOR & GENERAL FINANCE LTD. ..... Respondent
Through: Mr. Satyen Sethi, Advocate with Mr. Arta Trana Panda, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **12.01.2016**

1. This appeal by the Revenue is directed against the order dated 6th September 2007 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 3882/Delhi/2005 for the Assessment Year ('AY') 1997-98.

2. A short question that is urged by the Revenue for consideration is whether the provision for non-performing asset in the sum of Rs.2,69,62,167 could be deducted while computing the taxable income for the purposes of Section 115JA of the Act?

3. The said question has been answered by the Supreme Court in favour of the Assessee and against the Revenue, interpreting Section 115JA as it stood at the relevant time, in ***CIT v. HCL Comnet Systems & Services Ltd. [2008]***

305 ITR 409 (SC).

4. It is submitted that there is a subsequent amendment in Section 115JA by insertion of Clause (g) in the Explanation below Section 115JA (2) of the Act. However, the amendment has been made retrospectively effective from 1st April 1998 and therefore would not apply to the AY in question, i.e. AY 1997-98.

5. The second reason is that the controversy arose as a result of the Assessing Officer ('AO') giving appeal effect to the earlier order of the CIT(A) dated 22nd March 2002, despite the said order of the CIT(A) issuing no direction in relation to computation of income under Section 115JA of the Act.

6. In that view of the matter, no substantial question of law arises. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JANUARY 12, 2016
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