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* IN THE HIGH COURT OF DELHI AT NEW DELHI
28.
+ **ITA 157/2014**

COMMISSIONER OF INCOME TAX –V ..... Appellant
Through: Mr.P. Roy Chaudhuri, Senior Standing Counsel with Ms. Lakshmi Gurung, Advocate.

versus

ROGER ENTERPRISES PVT. LTD. ..... Respondent
Through: Ms. Kavita Jha and Mr. Vaibhav Kulkarni, Advocates.

AND

29.
+ **ITA 158/2014**

COMMISSIONER OF INCOME TAX –V ..... Appellant
Through: Mr.P. Roy Chaudhuri, Senior Standing Counsel with Ms. Lakshmi Gurung, Advocate.

versus

ROGER ENTERPRISES PVT. LTD. ..... Respondent
Through: Ms. Kavita Jha and Mr. Vaibhav Kulkarni, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER
% **03.03.2016**

1. These two appeals by the Revenue under Section 260 A of the Income

Tax Act 1961 ('Act') are directed against a common order dated 7th September 2012 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 568/Del/2006 pertaining to the Assessment Year ('AY') 1982-83 and ITA No. 567/Del/2006 pertaining to the AY 1981-82, respectively. ITA Nos. 567 and 568/Del/2006, in turn, are against the order dated 22nd November 2005 passed by the Commissioner of Income Tax (Appeals) ['CIT(A)'].

2. **Admit**. The following question of law is framed for consideration:

> "Was the ITAT correct in confirming the order of the CIT (A) deleting the penalty levied on the Respondent Assessee under Section 271 (1) (c) of the Act?"

3. It is conceded that these two appeals were omitted to be listed along with ITA Nos. 439/2003 and 156/2014 in which a judgment dated 4th February 2016 was rendered by the Court. By the said judgment the Assessee's appeal ITA No. 439 of 2003 was dismissed and the Revenue's appeal ITA 156 of 2014 was allowed. Consequently the impugned order dated 7th September 2012 of the ITAT and the order of the Commissioner of Income Tax (Appeals) [CIT(A)] were set aside and the penalty levied on the Assessee by the Assessing Officer (AO) under Section 271 (1) (c) of the Act by an order dated 30th January 2004 was restored.

4. Consequently, in terms of the judgment in ***Roger Enterprises P. Ltd. v. Commissioner of Income Tax, Delhi*** *(supra)* the question framed is answered in the negative i.e. in favour of the Revenue and against the

assessee. The impugned order dated 7th September 2012 passed by the ITAT and the order dated 22nd November 2005 passed by the CIT (A) are set aside and the orders dated 30th January 2004 passed by the AO levying penalty on the Assessee under Section 271 (1) (c) of the Act for AYs 1981-82 and 1982-83 are restored.

5. The appeals are allowed in the above terms.

S. MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 03, 2016
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