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

+ ITA 580/2016 & C.M.Nos.29410-29412/2016

PR. CIT CENTRAL-3

..... Appellant

Through: Mr.Ashok K. Manchanda,
Sr.Standing Counsel and Ms.Lakshmi
Gurung, Jr.Standing Counsel

versus

M/S SEAGRAM DISTILLERIES PVT.LTD.

..... Respondent

Through: Mr.Deepak Chopra and Ms.Rashi
Khanna, Advocates

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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12.08.2016

1. Two questions are sought to be urged by the revenue in the present appeal under Section 260A of the Income Tax Act in relation to AY 2006-2007. The first pertains to transit breakage made by the assessee and the second pertains to brand expenses.

2. At the outset it is pointed out that in respect of the same assessment year, the impugned order was questioned in ITA No.224/2016. That appeal was allowed and the court held that the provision for transit breakage was not allowable. So far as the second question is concerned, we notice that in ITA 224/2016 itself by the order dated 06.04.2016 the issue was covered against the assessee for AY 2006-2007 when it was held as follows:

“5. As far as the first issue is concerned it is not in dispute that it stands covered in favour of the Revenue by

*the decision of this Court dated 6th October, 2015 in **Seagram Distilleries Pvt. Ltd. v. CIT (2015) 378 ITR 581 (Del)**. Consequently, the appeals are admitted as far as this question is concerned and the question is answered in the negative i.e. in favour of the Revenue and against the Assessee. The impugned order of the ITAT to that extent is set aside.*

6. As far as the second question is concerned, it is seen from the impugned order of the ITAT that the Assessee was in appeal against the order of the Commissioner of Income Tax (Appeals) restricting the brand expenses to only 1/5th for the relevant AYs. The Assessing Officer ('AO') held that the brand expenses were incurred for enhancing the image of the brand and thus created an asset of enduring value. Accordingly the expenditure was treated as capital in nature and disallowed.

*7. The ITAT accepted the plea of the Assessee that the said expenditure incurred in brand enhancement had not resulted in creating an asset of enduring nature. It was, therefore, held that it was not a capital expenditure. The ITAT relied on the decision of this Court in **CIT v. Monto Motors (2012) 206 taxman 43 (Del)** which, as informed by the learned counsel for the Assessee, has been affirmed by the Supreme Court by the dismissal of the Special Leave Petition against the said judgment."*

3. In view of the above, it is quite evident that no question arises. Rather the questions of law sought to be urged in the present appeal were in fact urged – for the same assessment year 2006-2007 in another ITA 224/2016 preferred by the revenue itself.

4. We are of the opinion that urging this appeal was wholly unnecessary in view of the order in ITA Nos.224/2016 & 225/2016 which was between the same parties i.e. **PR CIT Central-3 vs. M/s**

Seagram Distilleries Pvt. Ltd. At the same time, we notice that on account of some confusion the appeal was preferred.

5. No question of law arises. The appeal along with pending applications is dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 12, 2016

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