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

\+ ITA 516/2016

PR. CIT CENTRAL-3 ..... Appellant

Through: Mr. Ashok Manchanda, Advocate.

versus

M/S SEAGRAM DISTILLERIES PVT. LTD. ..... Respondent

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

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

ORDER

% **03.08.2016**

CM No. 27703/2016 (Exemption)

1. Allowed subject to all just exceptions.

CM No. 27704/2016 (condonation of delay in re-filing) & 27702/2016 (condonation of delay in filing)

2. For the reasons given in the applications the delay in filing and re-filing of the appeal is condoned.

3. The applications are allowed.

ITA No. 516/2016

4. This appeal by the Revenue is directed against the order dated 10th July, 2016 passed in the Income Tax Appellate Tribunal ('ITAT') in ITA No. 4278/Del/2010 relating to the assessment year 2006-07.

5. There are two issues that are urged by the Revenue. One pertains to the provision made for breakage in transit and whether that amounts to provisioning for a contingent liability. As far as this issue is concerned, it stands covered in favour of the Revenue by the decision of this Court in ***Seagram Distilleries Pvt. Ltd. v. CIT (2015) 378 ITR 581***. The appeal is admitted as far as this question is concerned and it is answered in the negative i.e. in favour of the Revenue and against the assessee. The impugned order of the ITAT, to this extent, is set aside.

6. The second question concerns the expenditure incurred on brand creation as part of the revenue expenses and whether it was not, therefore, in the nature of capital expenditure? In view of the order dated 06th April, 2016 passed by this Court in ITA Nos. 224/2016 and 225/2016 (***Pr. CIT Central-3 vs. M/s Seagram Distilleries Pvt. Ltd.***), this question is answered in favour of the Assessee and against the Revenue. The Court, therefore, is not inclined to frame a question of law on this issue.

7. The appeal is, accordingly, disposed of.

S.MURALIDHAR, J

NAJMI WAZIRI, J

AUGUST 03, 2016/kk