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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 378/2016**

THE PR. COMMISSIONR OF INCOME TAX-4 ..... Appellant
Through: Mr. Puneet Rai, Advocate.

versus

GODAVARI SHILPKALA LTD. ..... Respondent

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% **25.07.2016**

1. This appeal by the Revenue is against the order dated 2nd November 2015 passed by the ITAT in ITA No.5634/Del/2013 for the Assessment Year ('AY') 2009-10.

2. The question sought to be urged by the Revenue is whether the ITAT was justified in concurring with the Commissioner of Income Tax (Appeals) ['CIT(A)'] who deleted the addition made by the Assessing Officer ('AO') of Rs.74,67,248 on account of repairs and maintenance expenses.

3. The question that arose was whether the said expenses were of revenue in nature since the benefit was of enduring in nature? Factually it was found both by the CIT (A) as well as ITAT that although the benefit may be of enduring nature no new asset came into existence and that, in the facts and circumstances of the case, the expenses should be treated only as revenue

expenditure.

4. Learned counsel for the Revenue has relied upon the decisions of the Supreme Court in ***Assam Bengal Cement Co.Ltd. v. Commissioner of Income Tax, West Bengal (1955) 27 ITR 34 (SC)*** and ***Ballimal Naval Kishore v. Commissioner of Income Tax (1997) 90 Taxman 402(SC)***.

5. The Court finds that the specific findings reached in those cases turned on the facts. As far as the present case is concerned, factually it was concluded that no new asset came into existence. In the circumstances, the decision of the CIT (A), affirmed by the ITAT, to delete the addition made by the AO by treating the expenses as a revenue expenditure appears to be a plausible one.

6. No substantial question of law arises for consideration.

7. The appeal is dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

JULY 25, 2016
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