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

\+	ITA 61/2013

DIT II ..... Appellant
Through: Mr. Asheesh Jain, Adv.

versus

VIRAGE LOGIC INTERNATIONAL ..... Respondent
Through: Mr. Prakash Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 11.11.2016

CM No. 42215/2016 (Exemption)

1. Allowed subject to all just exceptions.

CM No. 42214/2016 (early hearing)

2. Allowed.

3. With consent the other pending appeals i.e. ITA Nos. 323/2011, 552/2010, 721/2010 and 720/2010 are directed to be listed on 16.11.2016.

ITA No. 61/2013

4. With consent of counsel, the appeal is taken up for final disposal.

5. The questions of law involved in this case are identical to those framed in ITA Nos. 1108/2007, 1249/2009 and 173/2016 i.e. as to whether the assessee was entitled to the benefit of Section 10A of the

Income Tax Act, 1961. By a common order dated 09.11.2016 passed in the aforesaid appeals, this Court had answered the questions of law in favour of the assessee and against the Revenue and, consequently, rejected the appeals. The order, inter alia, concluded as follows:

> "*.....13. It is undoubtedly aphorism that a legal fiction ought to be taken to its logical conclusion and the mind should not be allowed to boggle. This merely implies that a fiction should logically take a direction; the train of thought however cannot divert elsewhere. The absence of a "deemed export" provision in Section 10A similar to the one in Section 80HHC does not logically undercut the amplitude of the expression "transfer of goods" under Section 80-IA(8) – which is now part of Section 10A. Such an interpretation would defeat Section 10A(7) entirely.*
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> *14. For the above reasons, the Court is of the opinion that substantial questions of law framed are to be answered in favour of the assessee and against the Revenue. The ITA Nos. 1108/2007, 1249/2009 and 173/2016 are, accordingly, dismissed. It is clarified, however, that the AO is at liberty to give tax effect as a consequence of the interpretation adopted by this Court....*"

6. In view of the above development, the questions of law in this case too are answered against the Revenue and in favour of the assessee. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

NOVEMBER 11, 2016