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

\+ **ITA 862/2016 & CM No.44756/2016**

PR. COMMISSIONER OF INCOME TAX, DELHI - 05..... Appellant
Through: Mr. Raghvendra Singh and Mr.Rahul Choudhary, Advocates.

Versus

LEMON TREE HOTELS PVT. LTD. ..... Respondent
Through: Mr. Pranjal Srivastava, Advocate.

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

O R D E R

% 02.12.2016

The question of law urged is, "whether the Income Tax Appellate Tribunal (ITAT) fall into error in deleting the disallowance of expenses deducted as cost of Employees Stock Auction Plan (ESOP)? "

The Revenue contends that the assessee/Revenue fell into error inasmuch as even though took note of the decision of this Court for the previous year (ITA No.107/2013 decided on 18.08.2015) to the extent it relied on *CIT Vs. Oswal Agro Mills Limited* has not applied the law correctly. In this regard, learned counsel relied upon the judgment of the Supreme Court in *Punjab State Industrial Development Corporation Ltd., Chandigarh Vs. Commissioner of Income Tax, Patiala* [1997] 225 ITR 792 (SC) .

The judgment in *Commissioner of Income Tax Vs. Havells India Limited* [2013] 352 ITR 376, was considered specifically in *Oswal Agro's* case (*supra*) i.e. decided on 04.08.2015. *Havells'*case (*supra*) had taken note of the various judgments including Punjab State's case (*supra*). Moreover, this Court notices that the question of law arose only for two years i.e. Assessment Years 2008-09 and 2009-10. There were previous orders which cover Assessment Year 2008-09. In the circumstances, having regard to the overall circumstances and the fact that the previous orders took note of the relevant judgments, it is held that no substantial question of law arises.

The appeal is dismissed.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

DECEMBER 02, 2016
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