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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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+ **ITA 135/2016**

PR.COMMISSIONER OF INCOME TAX-6 ..... Appellant
Through: Mr. Rahul Chaudhary, Senior Standing counsel with Mr. Raghvendra Singh and Mr. Sharad Agarwal, Advocates.

versus

NILGIRI INFRASTRUCTURE DEVELOPMENT LTD. ..... Respondent

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **16.02.2016**

1. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') is against an order dated 10th July 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 4108/DEL/2013 for the Assessment Year ('AY') 2009-10.

2. The ground urged by the Revenue concerns the deletion by the ITAT of the disallowance made by the Assessing Officer ('AO') of Rs.1,36,94,050 under Section 14A of the Act read with Rule 8D of the Income Tax Rules, 1962.

3. The ITAT has in the impugned order relied on the decision of this Court

in ***CIT v. Holcim India (P) Ltd. [2014] 272 CTR 282 (Del)***. Learned counsel for the Revenue submits that the decision of this Court requires reconsideration by a larger Bench particularly in light of Circular No. 5/2014 of the Central Board of Direct Taxes dated 11th February 2014.

4. Having heard learned counsel for the Revenue and having examined the impugned order and considering the fact that the judgment in ***CIT v. Holcim India (P) Ltd.*** (*supra*) was delivered on 5th September 2014, the Court is not persuaded to accept the above plea of the learned counsel for the Revenue. In any event, the circular of CBDT cannot possibly override a binding decision of the Court. Also the decision in ***CIT v. Holcim India (P) Ltd.*** (*supra*) was not challenged by the Revenue.

5. No substantial question of law arises for determination.

6. The appeal is accordingly dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 16, 2016
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