IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-209-2017 (O&M)
Date of decision: 12.05.2017

The Pr. Commissioner of Income Tax, Gurgaon ..... Appellant

Versus

BMW India Pvt. Ltd. ..... Respondent

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Tajinder K. Joshi, Senior Standing Counsel for the appellant-Revenue.

AJAY KUMAR MITTAL, J. (ORAL)

1. This appeal has been filed under Section 260A of the Income Tax Act, 1961(in short 'the Act') against the order dated 22.03.2016 passed by the Income Tax Appellate Tribunal, Delhi Bench: '1-2' New Delhi, in SA No. 188/Del/2016(in ITA No. 1406/Del/2015) for the assessment year 2010-11, claiming following substantial questions of law:-

> "1. Whether the Hon'ble ITAT has acted in contravention to the Second Proviso of Section 254 (2A) of the Income Tax Act, 1961, as the combined period of stay has exceeded 365 days?
> 2. Whether the order of the ITAT be treated as Void-ab-initio in light of Third Proviso to Section 254(2A) of the Income Tax Act, 1961, which provides that stay of demand stands vacated after expiry of a period of 365 days, even if delay in disposal of appeal is not attributable to the assessee."

2. It was not disputed by learned counsel for the appellant-revenue that the matter in issue is no longer *res integra* and stands concluded by the decision of this Court in ***ITA No. 5 of 2016,*** titled as ***Principal Commissioner of Income Tax, Gurgaon vs. M/s Carrier Air Conditioning and Refrigeration Limited*** decided on 25.04.2016, whereby identical question as claimed in the present appeal, has been held not to be substantial question of law.

3. For the reasons recorded in the aforementioned appeal, the present appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

May 12, 2017 **(HARINDER SINGH SIDHU)**
dinesh **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No