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

R-9

\+ **ITA 603/2004**

M.V.S. ENGINEERING LTD ..... Appellant
Through: None.

Versus

THE COMMISSIONER OF INCOME TAX ..... Respondent
Through: Mr. Dileep Shivpuri, Senior standing counsel.

**CORAM:**
**JUSTICE S.MURALIDHAR**
**JUSTICE CHANDER SHEKHAR**

**ORDER**

% **24.04.2017**

1. This appeal under Section 260A of the Income Tax Act, 1961 ('Act') filed by the Appellant, M.V.S. Engineering Limited, is directed against the impugned order dated 5th March, 2004 passed by the Income Tax Appellate Tribunal ('ITAT') for the Assessment Year ('AY") 1996-97.

2. By an order dated 2nd November, 2004, while admitting the appeal, the Court framed the following question of law for consideration:

> "Whether the Income Tax Appellate Tribunal has correctly interpreted the provisions of Section 43B and 2nd proviso thereto, to hold that the Assessee had to deposit the employees contribution under the Employees Provident Fund and Misc. Provision Act, 1952 and the Employees State Insurance Act, 1948, each month before the due

> dates as prescribed under these Welfare Acts to get the benefit of deduction under Section 43B of the income Tax Act, 1961?"

3. It is seen that the aforesaid question stands answered in favour of the Assessee and against the Revenue by the decision of this Court in ***Commissioner of Income-tax v. AIMIL Limited (2010) 321 ITR 508 (Del).***

4. Accordingly, the impugned order of the ITAT is set aside and the question framed is answered in favour of the Assessee and against the Revenue. The appeal is allowed but in the facts and circumstances of the case, with no orders as to costs.

**S.MURALIDHAR, J**

**CHANDER SHEKHAR, J**

**APRIL 24, 2017**
*Rm*