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

\+ **ITA 312/2015**

COMMISSIONER OF INCOME TAX-4 ..... Appellant

Through Mr. Raghvendra Singh, Advocate

versus

HONDA SIEL POWER PRODUCTS LTD. ..... Respondent

Through Mr. Ajay Vohra, Sr. Advocate with Ms. Kavita Jha & Ms. Rupali Gupta, Advocates

With

\+ **ITA 538/2015**

PR. COMMISSIONER OF INCOME TAX – 4 ..... Appellant

Through Mr. Raghvendra Singh, Advocate

versus

HONDA SIEL POWER PRODUCTS LTD. ..... Respondent

Through Mr. Ajay Vohra, Sr. Advocate with Ms. Kavita Jha and Ms. Rupali Gupta, Advocates

And

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\+ **ITA 118/2017**

THE PR. COMMISSIONER OF INCOME TAX-4 ..... Appellant

Through Mr. Raghvendra Singh, Advocate

versus

HONDA SIEL POWER PRODUCTS LTD. ..... Respondent

Through Mr. Ajay Vohra, Sr.Advocate with Ms. Kavita Jha and Ms. Rupali Gupta, Advocates

CORAM:

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JUSTICE S. MURALIDHAR
JUSTICE ANIL KUMAR CHAWLA

ORDER

% **08.05.2017**

CM APPL 4660/2017 (for delay) in ITA No. 118/2017

For the reasons stated therein, the delay of 70 days in re-filing the appeal is condoned.

ITA Nos. 312/2015, 538/2015 & 118/2017

1. ITA No. 312 of 2015 by the Revenue is directed against the order dated 25th July 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 5713/Del/2011 for the Assessment Year ('AY') 2007-08.

2. ITA No. 538 of 2015 by the Revenue is directed against the order dated 12th December 2014 passed by the ITAT in ITA No. 6023/Del/2012 for the AY 2008-09.

3. ITA No. 118 of 2017 by the Revenue is directed against the order dated 13th April 2016 passed by the ITAT in ITA No. 551/Del/2014 for the AY 2009-10.

4. By its order dated 14th January 2016, the Court issued notice in ITA Nos. 312 and 538 of 2015 confined to the following question:

> "Whether the ITAT erred in deleting the addition under Section 40(a) (i) of the Income Tax Act, 1961 holding that the export commission is neither royalty nor fee for technical service?"

5. By its order dated 1st March 2017 the Court issued notice in ITA 118 of 2017 confined to an identical question for AY 2009-2010.

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6. By a separate order passed today in ITA No. 923 of 2015 (***Commissioner of Income Tax- IV v. Hero Motocorp Ltd***), an identical question that arose in AY 2006-07 has been answered in the negative i.e. against the Revenue and in favour of the Assessee.

7. Consequently, the Court declines to frame any substantial question of law on this issue. The appeals are accordingly dismissed.

S.MURALIDHAR, J

ANIL KUMAR CHAWLA, J

MAY 08, 2017
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