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

\+ ITA 189/2017, C.M. APPL.8991/2017

THE PR. COMMISSIONER OF INCOME TAX-4..... Appellant
Through : Sh. Puneet Rai, Jr. Standing Counsel.

versus

INDRAPRASTHA POWER GENERATION CO. LTD.
..... Respondent
Through : None.

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

O R D E R
% 24.03.2017

The sole ground urged by the Revenue in this appeal under Section 260A of the Income Tax Act, 1961 is whether the deletion of ₹75 crores ordered by the CIT(A) and the ITAT in the circumstances was justified.

The assessee received grants from the Govt. of NCT of Delhi for meeting revenue expenses, i.e. by way of *ex-gratia* payment upon voluntary retirement. In the first instance, the Assessing Officer (AO) treated this receipt as income and sought to tax it. That order was set aside. The ITAT confirmed the CIT(A)'s order and observed that ₹75 crores comprised of two components, i.e. *ex-gratia* payments at the stage of voluntary retirement and ₹35.90 crores towards Pension Trust Fund liability to be borne by the assessee towards VRS pay-out. The CIT(A)'s interpretation of the payable entry with respect to this was that it was an outstanding liability *vis-a-vis* Govt. of NCT of Delhi and the Pension Trust *vis-a-vis* the assessee. In the circumstances, it is held that the AO did not correctly appreciate the facts. The ITAT found as follows:

> *"6. In view of the above, we observe that this fact remained uncontroverted that the assessee has claimed Rs. 7,22,48,212/- in the computation of income as first instalment towards VRS exgratia being 1/5th of such payment as per terms set out by the Drawing and Disbursing Authority [DDA] and thus first limit of addition of Rs. 39.10 crores has been dismissed. Further, from the order of the CIT(A), we are also in agreement with the conclusion as recorded by the first appellate authority that since the Government of Delhi, which is 100% owner of the assessee company, the employees who opted for VRS [Voluntary Retirement Scheme] were to be paid their dues for which approved provident fund did not have adequate/planned investment thus the government decided to provide long term capital loans of Rs. 35.90 crores to the assessee which was passed on to the Pension Fund Trust enabling the company to make payments to the employees. In view of the above noted factual matrix of the case on the issue we are unable to see any valid reason to interfere with the conclusion of the CIT(A) thus we uphold the same. Accordingly, the sole ground of the Revenue being devoid of merits is dismissed."*

This Court is of the opinion that no substantial question of law arises as the issue involves bare appreciation and application of VRS scheme in the facts of this case. The appeal is accordingly dismissed along with the pending application.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 24, 2017/ajk