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

\+ **ITA 369/2005**

COMMISSIONER OF INCOME TAX ..... Appellant
Through: Mr. Asheesh Jain, Senior Standing Counsel for Revenue with Mr. Vikrant A. Maheshwari, Advocate.

versus

M/S J.B. EXPORTS LTD. ..... Respondent
Through: None.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

<u>O R D E R</u>

% 20.07.2017

1. This appeal by the Revenue is directed against the order dated 6th October, 2004 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 577/Del/1997 for the Assessment Year ('AY') 1992-93.

2. While admitting the appeal on 13th September, 2005, the following two questions of law were framed for determination :-

> *a) Whether the ITAT was correct in law in allowing deduction under Section 80 HHC to the assessee on the amount of interest from FDRs without applying the provisions of Explanation (baa) to Section 80 HHC of the Act?*

b) Whether the amount of Rs.73,69,376/- being the duty draw back can be regarded as income derived from an industrial undertaking so as to entitle the assessee a deduction under Section 80-I of the Income Tax Act?"

3. As far as Question (a) above is concerned, the same stands answered in favour of the Assessee and against the Revenue by the decision of this Court in ***Commissioner of Income Tax v. Shri Ram Honda Power Equip, (2007) 289 ITR 475 (Del)***. Accordingly, the Question (a) is answered in the affirmative i.e. in favour of the Assessee and against the Revenue.

4. As far as Question (b) above is concerned, it stands covered in favour of the Revenue by the decision of this Court in ***Commissioner of Income Tax v. Ritesh Industries Ltd. (2005) 274 ITR 324 (Del)***. This question is, accordingly, answered in negative i.e. in favour of the Revenue and against the Assessee.

5. The appeal stands disposed of accordingly.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 20, 2017

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