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

\+ **ITA No. 442/2005**

Reserved on: 11th November 2017
Decided on: 7th December, 2017

MARUTI UDYOG LTD. ..... Petitioner
Through: Mr. S. Ganesh, Senior Advocate with Ms. Kavita Jha, Mr. S. Sukumaran, Mr. Anand Sukumar, Mr. Bhuwan Dhoopar, Ms. Roopali Gupta and Mr. Bhupesh Pathak, Advocates.

versus

COMMISSIONER OF INCOME TAX, DELHI ..... Respondent
Through: Mr. Ruchir Bhatia, Senior Standing Counsel, Mr. Puneet Rai, Junior Standing Counsel and Mr. Gaurav Kheterpal, Advocate.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

JUDGMENT

% **07.12.2017**

Dr. S. Muralidhar, J.:

1. This is an appeal by the Assessee against the impugned order dated 28th March 2005 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.678/Del/2004 for the AY 2000-01.

2. While admitting this appeal on 24th April 2006, the following questions of law were framed for consideration:

"i. Whether the ITAT erred in law in confirming the disallowance of the amount of Rs.2,93,59,644/- deposited by the Appellant in its Central Excise Personal Ledger Account (PLA) before 31.3.2000 i.e. the end of the relevant accounting year even though the assessee has already incurred liability of excise duty of a much higher value?

ii. Whether the ITAT had committed an error of law in upholding the disallowance of the amount of Rs.65,43,26,890/- which represented MODVAT credit of excise duty that remained unutilized by 31.3.2000 i.e. the end of the relevant accounting year?

iii. Whether the ITAT has committed an error of law in upholding the disallowance of Rs.3,57,51,194/- in respect of Sales Tax Recoverable account, under Section 43B of the Income Tax Act?

iv. Has not the ITAT erred in law in failing to allow the software expenditure of Rs.1,82,71,588/- incurred by the Appellant as revenue expenditure?"

3. In view of the decision of this Court today in ITA No. 31 of 2005, Question (i) is answered in the affirmative, i.e. in favour of the Assessee and against the Revenue.

4. Question (ii) is answered in the negative, i.e. in favour of the Revenue and against the Assessee in view of the decision of this Court in ITA No. 31 of 2005.

5. Question (iii) is again answered in the negative, i.e. in favour of the Revenue and against the Assessee.

6. Question (iv) is answered in the affirmative, i.e. in favour of the Assessee and against the Revenue.

7. ITA No.442 of 2005 is disposed of accordingly.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

DECEMBER 07, 2017
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