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

\+ **ITA 496/2005**

THE COMMISSIONER OF INCOME TAX ..... Appellant

Through : Mr. Ashok Manchanda, Mr.Raghvendra K. Singh, Senior Standing Counsels for Revenue.

versus

M/S DABUR INDIA LTD. ..... Respondent

Through : Mr. K.N. Ahuja, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

O R D E R

% **15.11.2017**

This appeal filed by the Revenue in case of M/s Dabur India Limited relates to Assessment Year 1997-98. The appeal was admitted for hearing on 26th July, 2005 on the following substantial question of law:

> *"What is the effect of omission of Section 34(1) of the Income Tax Act, 1961 w.e.f. 1.4.1988 on the claim of deduction under Section 80-IA of the Act?"*

2. Learned counsel for parties agree that the aforesaid question of law is covered by the decision of this court in Assessee's own case dated 1st September, 2008 in ***ITA 579/2007 Dabur India Limited v. Commissioner of Income Tax, New Delhi***, *inter alia* holding that in order to claim deduction under Chapter VI-A, one must calculate the gross total income, before

claiming deductions contemplated under Chapter VI-A. Gross total income is required to be computed as per Sections 29 to 43A which includes Section 32(2) of the Income Tax Act, 1961. Therefore one cannot exclude depreciation allowance while computing deduction under Section 80-IA of the Act.

3. The aforesaid ratio finds approval and affirmation in the recent decision of the Supreme Court in ***Civil Appeal 238/2012, Plastiblends India Limited v. Additional Commissioner of Income Tax, Mumbai and Anr.***, decided on 9^{th} October, 2017.

4. In view of the aforesaid position, the substantial question of law is answered in favour of the Appellant-Revenue and against the Respondent-Assessee. There would be no orders as to costs.

SANJIV KHANNA, J

PRATHIBA M. SINGH, J

NOVEMBER 15, 2017

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