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

\+ **ITA 558/2009**

DIRECTOR OF INCOME TAX ..... Appellant

Through: Mr.Rahul Chaudhary, Sr.Standing Counsel.

versus

MITSUI & CO. LTD. ..... Respondent

Through: Mr.Mayank Nagi, Advocate.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

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

% **12.10.2017**

1. This is an appeal by the Revenue under Section 260A of the Income Tax Act, 1961 against an order dated 24th December 2008 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 4645/Del/2005 for the Assessment Year ('AY') 2002-03.

2. While admitting this appeal by the order dated 19th August 2009, the following questions were framed by the Court for consideration:-

> "a) Whether the ITAT was right in holding that the Indian branches/offices of the Assessee company and their activities cannot be regarded as permanent establishment of the Assessee in India and income directly or indirectly attributable to these branches/offices is not taxable in India?
>
> b) Whether the ITAT was right in law in holding that the Assessee company does not have any permanent establishment in India and its income from business turnover/imports in India

> was exempt in view of Agreement for Avoidance for Double Taxation between India and Japan?"

3. In view of the order passed today by the Court in ITA No. 902/2009 involving the same Assessee for AY 2001-02, the aforementioned questions are answered in the affirmative, i.e. in favour of the Assessee and against the Revenue.

4. The appeal is dismissed but, in the circumstances, with no orders as to costs.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

OCTOBER 12, 2017
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