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

\+ **ITA 331/2017**

PR.COMMISSIONER OF INCOME TAX(LTU) ..... Appellant

Through: Mr. Rahul Chaudhary, Senior Standing Counsel with Ms. Lakshmi Gurung, Advocate

versus

AVTEC LTD. ..... Respondent

Through: Mr. Sanat Kapoor, Advocate

CORAM: JUSTICE S.MURALIDHAR
JUSTICE VINOD GOEL

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

% **22.05.2017**

1. This is an appeal by the Revenue under Section 260A of the Income Tax Act, 1961 against the order dated 20th October, 2016 passed by the Income Tax Appellate Tribunal in ITA No. 296/Del/2014 for the Assessment Year ('AY') 2007-08.

2. At the outset, Mr. Rahul Chaudhary, learned Senior Standing Counsel for the Revenue, points out that the tax effect in the present case is Rs. 2.4 lakhs i.e., well below the prescribed limit of Rs. 20,00,000/- for filing an appeal by the Revenue. However, it is stated that while there is an audit objection pertaining to certain other AYs i.e., 2008-09, 2009-10 and 2010-11 there isn't one concerning the AY in question i.e., 2007-08.

3. Reliance is placed by Mr Chaudhary on para 8 of the Circular No. 21/2-15 dated 10th December, 2015 which states that adverse judgments should be contested on merits, notwithstanding the tax effect "where Revenue Audit Objection in the case has been accepted by the Department."

4. It is plain that the Revenue's audit objection is for each AY and not for the Assessee in general. In the present instance, while there is an audit objection for AYs 2008-09, 2009-10 and 2010-11, there is no audit objection for the AY in question i.e., AY 2007-08. Therefore, the Revenue cannot take advantage of para 8(c) of the said Circular to justify the filing of the present appeal.

5. The appeal is, accordingly, dismissed.

S.MURALIDHAR, J

VINOD GOEL, J

MAY 22, 2017
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