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

\+ **ITA 490/2017**

PR COMMISSIONER OF INCOME TAX-04 ..... Appellant
Through: Mr.Zoheb Hossain, Standing Counsel

Versus

M/S INDO RAMA SYNTHETICS (INDIA) LTD. ..... Respondent
Through: Ms.Roopali Gupta, Advocate.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **11.07.2017**

1. This is an appeal by the Revenue against the order dated 15th November, 2016 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No.2674/Del/2011 for the Assessment Year 2003-04.

2. One of the questions that arises is whether the ITAT erred in confirming the order of the CIT (A) that set aside the reassessment proceedings under Sections 147/148 of the Act. The reason that weighed with the ITAT in coming to the above conclusion was the failure of the Revenue to adhere to the procedure set out in the decision of this Court in ***CIT v. Tupperware India P. Ltd. (2016) 236 Taxman 494 (Del).*** To this extent this Court finds no error having been committed by the ITAT and, therefore, is not inclined to frame any question of law.

3. Mr Zoheb Hossain, learned counsel for the Revenue, points out that the ITAT proceeded to discuss the matter on merits and concluded that an earlier assessment order could not constitute tangible material to justify the reopening of an assessment under Sections 147/148 of the Act.

4. The Court is of the view that ITAT need not have examined the above issue for the ultimate decision it arrived at. Accordingly leaves the above question open for being considered in any other appropriate case.

5. The appeal is dismissed.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 11, 2017
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