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

\+ **ITA 1189/2017**

PR. COMMISSIONER OF INCOME TAX(CENTRAL)-2

..... Appellant

Through : Mr Zoheb Hossain, Advocate for Revenue.

versus

M/S NIIT LTD ..... Respondent

Through : Mr Rohit Jain and Mr Aniket D.Agrawal, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A.K.CHAWLA

O R D E R

% **22.12.2017**

ITA 1189/2017 & CM No.47032/2017(condonation of delay)

1. The sole question of law urged in support of the Revenue's Appeal in this case is the issue of disallowance of excess deduction sought to be brought to tax on interpretation of Section 10B of the Income Tax Act, 1961(hereafter referred to as *'the Act'*), by the Assessing Officer(A.O.).

2. The A.O. had disallowed the set off between the losses of the eligible units with the profits of the ineligible units on an interpretation of Section 10B of the Act.

3. The Commissioner of Income Tax (Appeal) followed the then prevailing Rule in *CIT versus Yokogawa India Limited,* 341 ITR 385,

which had ruled that the provisions were in the nature of deduction than exemptions and allowed the set off/adjustment.

4. The Income Tax Appellate Tribunal (ITAT) confirmed the findings of the Commissioner of Income Tax, taking note of the subsequent event, whereby the Supreme Court affirmed the Karnataka view (*CIT versus Yokogawa India Limited(supra).*

5. Having regard to the fact, the only question is the issue of absorption of losses and the treatment as between two categories of Units, i.e. eligible units (under Section 10B) and an ineligible one, which is now covered by the Supreme Court Ruling in *CIT versus Yokogawa India Limited(supra)*.

6. No question of law arises. The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

A.K.CHAWLA, J

DECEMBER 22, 2017

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