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

\+ ITA 1125/2017

IILM EDUCATION PVT LTD ..... Appellant

Through: Mr. Sandeep Mittal and Mr. Vinod Kathwalia, Advs.

versus

COMMISSIONER OF INCOME TAX ..... Respondent

Through: Mr. Asheesh Jain, Sr. Standing Counsel with Mr. Shahrukh Ejaz, Adv. for Income Tax Deptt.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% **08.12.2017**

The assessee urges two grounds for its appeal under Section 260A of the Income Tax Act, 1961, firstly – the question of depreciation and secondly the disallowance made on account of security deposit liability. Counsel for the Revenue urges, at the outset that the ITAT had recorded that the issue of security deposit/fee had been given up in the ITAT and the assessee had subsequently preferred an application for rectification under Section 254(2). The Revenue also points out that the CIT(Appeals) in this case is based in Gurgaon and that on the strength of the decision of the larger bench in Sterling Agro, the Court under 260A having proper jurisdiction would be Punjab and Haryana High Court (ref: AIR 2007 (Delhi) 174).

In the light of the above, the Court of the opinion that it is open to the assessee to approach the appropriate court for remedy in the event of an adverse decision under Section 254(2) since there is no adjudication. The issue of depreciation too be kept open for consideration in the said subsequent proceedings. Learned counsel for the assessee seeks liberty to withdraw the appeal in the light of above observations. The appeal is dismissed as withdrawn.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 08, 2017
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