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

\+ ITA 433/2005

THE COMMISSIONER OF THE INCOME TAX..... Petitioner
Through Mr. Zoheb Hossain, Sr. Standing Counsel.

versus

M/S P&G ENTERPRISES PRIVATE LIMITED ..... Respondent
Through Ms. Nimisha Menon, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

<u>O R D E R</u>
% **10.01.2018**

This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 in the case of P&G Enterprises Pvt. Ltd. relates to Assessment Year 2001-02 and arises from the order of the Income Tax Appellate Tribunal in ITA No.3942/Del/2004.

2. The appeal was admitted vide order dated 13th July, 2005, on the following substantial questions of law:-

> "1) Whether the loss on exports is to be ignored at the time of calculating deduction under Section 80HHC of the Act?
>
> 2) Whether amount received from sale of DEPB receipts under section 28(iv) and 'profit to the business' within the meaning of clause (baa) of the Explanation to Section 80HHC (4B) of the Act, 1961?"

3. Counsel for the parties are ad idem that the questions of law are

covered by the decision of the Supreme Court in the case of IPCA ***Laboratories Ltd. Vs. DCIT***, (2004) 266 ITR 521 and ***Tompam Exports Vs. Commissioner of Income Tax, Mumbai***, (2012) 3 SCC 593.

4. The Assessing Officer will accordingly re-compute the deduction under Section 80HHC applying the principles as laid down in the aforesaid decisions.

5. The questions of laws are accordingly answered without any order as to costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

JANUARY 10, 2018
NA