$~R-59

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

\+ ITA 802/2005

COMMISSIONER OF INCOME TAX ..... Appellant
Through Mr. Shahrukh Ejaz, Proxy Counsel

versus

M/S INDOCOUNT CHOONGNAM TEXTIL ..... Respondent
Through Mr. Vaibhav Kulkarni, Adv.

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

ORDER

% **31.01.2018**

This appeal under Section 260-A of the Income Tax Act, 1961 filed by the Revenue in the case of M/s Indocount Choongnam Textile Limited arises from order dated 09.02.2005 in ITA No. 1269/Del/2002 passed by the Income Tax Appellate Tribunal (Tribunal for short) and relates to the assessment year 1998-1999.

2. By order dated 19.09.2005, the following substantial question of law was framed:-

> *"Whether the ITAT was correct in law in allowing depreciation to the assessee on the enhanced value of Plant and Machinery due to exchange fluctuation in rate of exchange on the last date of the accounting year on the assets purchased by the assessee taking foreign currency loan when the repayment was not actually made by the last date of the accounting year?"*

3. The question of law and issue is covered against the revenue vide judgment in ***Commissioner of Income Tax v. Woodward Governor India P. Ltd.*** **(2007) 294 ITR 451 (Del).**

4. The aforesaid decision hold that the assessee is entitled to compute the value of the assets for depreciation by including increase in liability due to foreign exchange fluctuation as per the exchange rate prevailing on the last day of the financial year.

5. The question of law is accordingly answered against the appellant/revenue and in favour of the respondent/assessee. The appeal is dismissed, without any order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 31, 2018/b

$-R-62

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

+ ITA 813/2005

COMMISSIONER OF INCOME TAX ..... Appellant

Through Mr. Asheesh Jain, Sr. Standing Counsel with Mr. Shahrukh Ejaz, Adv.

versus

ANIL KUMAR AGGARWAL ..... Respondent

Through

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

O R D E R

% **31.01.2018**

During the course of hearing, learned counsel for the revenue states that the tax effect in the appeal is less than Rs.20 lakhs and hence, the question of law need not be answered.

In view of the aforesaid position, we refuse to answer the question of law. Accordingly, the appeal is disposed of. We clarify that we have not commented on merit.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 31, 2018/b