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

\+ ITA 871/2018

STANDARD CHARTERED GRINDLAYS PTY BANK.... Appellant

Through: Ms. Shashi M. Kapila, Mr. Pravesh Sharma, Mr. R.R. Maurya, Mr. Siddarth Kapila & Mr. Sushil Kumar, Advocates

versus

DY. DIRECTOR OFINCOMETAX & ORS. ..... Respondents

Through: Mr. Sanampreet Singh, Advocate

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

O R D E R

% **14.09.2018**

CM No.32577/2018

Allowed, subject to all just exceptions. The application is disposed of.

ITA No.871/2018

This appeal by the assessee challenges the direction for remand on the question of expenditure incurred outside India in foreign currency for procuring deposits from non-resident Indians, made by the Income Tax Appellate Tribunal ('Tribunal') vide order dated 28.2.2018.

The contention of the assessee is that an order of remand should not have been passed as the Tribunal has accepted the assessee's contention that expenditure incurred outside India should be allowed under Section 37 of the Income Tax Act, 1961.

We are not inclined to frame any substantial question of law as the remand order in the present case is only a direction to the Assessing Officer to pass an appeal effect order, which had to be passed in the facts of the present case.

The grievance of the appellant/assessee that remand orders on the said aspect were repeatedly being passed by the Tribunal was examined and addressed by this Court in ITA No.485/2018 vide order dated 27.8.2018. Relevant portion of this order dated 27.8.2018 reads:-

> *"The fourth question raised in the ground of appeal would be covered by the first question framed by us.*
>
> *The third question raised by the appellant-assessee questions the remand to the Assessing Officer on expenditure incurred outside India for procuring deposits from Non Resident Indians.*
>
> *The primary grievance of the appellant is that remand order should not have been passed and was not required as the Tribunal had accepted in principle that the expenditure was allowable under Section 37 and other provisions of the Income Tax Act, 1961.*
>
> *Counsel for the appellant-assessee states that the Tribunal in an appeal for the assessment year 1996-97 had passed a similar order of remand and the Assessing Officer has allowed expenditure incurred outside India.*
>
> *We are not inclined to frame question of law, as remand order in the present case is only a direction to the Assessing Officer to pass an appeal effect order. An appeal effect order is normal and has to be passed in respect of the expenditure incurred outside India.*
>
> *The grievance of the appellant-assessee is that repeated remand orders are being passed by the Tribunal on*

the same question. The appellant-assessee is at liberty to raise this issue and contention before the Tribunal, who would consider the same. If merit is found in the contention raised, the Tribunal instead of remand may consider directing the Assessing Officer to pass an appeal effect order."

Recording the aforesaid and without commenting on the appeal preferred by the Revenue on allowbility of the said expenditure, we do not see any reason or ground to frame any substantial question of law on the aspect of remand. The appeal is accordingly dismissed, without commenting on merits.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

SEPTEMBER 14, 2018
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