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

\+ ITA 930/2018

THE PR. COMMISSIONER OF INCOME TAX -6..... Appellant
Through: Mr. Puneet Rai & Mr. Ruchir Bhatia, Advocates

versus

M L OUTSOURCING SERVICES LTD. ..... Respondent
Through:

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

ORDER

% **28.08.2018**

Two issues raised by the Revenue in this appeal under Section 260A of the Income Tax Act, 1961 ('Act') relating to deduction under Section 10B of the Act and obligation to deduct tax deducted at source ('TDS') on purchase of software are covered against them by decisions of this Court in the ***Commissioner of Income Tax v. ML Outsourcing Services (P) Ltd.,*** *[2014] 271 CTR 553* and ***DIT v. Infrasoft Ltd.,*** *(2014) 220 Taxman 273(Del)*, respectively. First decision is in the case of the respondent assessee.

Third issue raised by the Revenue in this appeal relates to miscellaneous income of Rs.8,83,600/-, which the Assessing Officer had held was not eligible for deduction under Section 10B of the Act. Contention is that this income was not derived by the export-oriented undertaking from export of articles, computer software etc. Apart from the fact that the quantum or amount involved is low, we find that the miscellaneous income included the amounts written back under Section 41(1) of the Act and also payments received from the employees who had not served the notice period. Noticeably, these amounts were treated as business income by the Assessing Officer and not as income from other sources. In view of the aforesaid position, we are not inclined to issue notice on the third issue.

The appeal is dismissed, without any order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

AUGUST 28, 2018
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