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

\+ ITA 766/2017

AUTOMOTIVE COMPONENT MANUFACTURERS ASSOCIATION OF INDIA ..... Appellant

Through: Ms. Kavita Jha, Adv.

versus

THE DIRECTOR OF INCOME-TAX (EXEMPTION) ..... Respondent

Through: Mr. Ruchir Bhatia, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **23.03.2018**

The assessee had questioned the invocation of Section 263 of the Income Tax Act, 1961 (hereafter referred to as "the Act") by the Commissioner in an appeal to the ITAT which was subsequently withdrawn. The impugned order recorded the withdrawal of that appeal.

In the meanwhile, the concerned AO gave effect to the substantive order of the CIT(A) and brought to tax the amounts under Section 11(3) of the Act. The assessee's appeal to the CIT(A) was rejected primarily on the ground that it had withdrawn its previous appeal questioning the assumption under Section 263 of the Act. It is not disputed that the assessee's appeal (appeal to the ITAT) against the order of the CIT(A) (dated 23.03.2017) is pending before the ITAT.

Having regard to these peculiar circumstances, it is clarified that the ITAT should consider the substantive merits of the appeal with respect to the assessee's taxability of amounts under Section 11(3) of the Act without in any manner holding adversely against it, for the withdrawal of the previous appeal (which was concerned only with the question of assumption of taxability under Section 263 of the Act).

The appeal is disposed of in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MARCH 23, 2018
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