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

\+ ITA 41/2018

PR. COMMISSIONER OF INCOME TAX-6, NEW DELHI

..... Appellant

Through: Mr. Asheesh Jain, Sr. Standing Counsel with Mr. Dushyant Sarna, Advocate for Income Tax Department.

versus

NATIONAL TEXTILE CORPORATION LTD.

..... Respondent

Through: Mr. Ved Jain, Mr. Kislaya Parashar and Miss Umang Luthra, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

<u>O R D E R</u>

% **13.12.2018**

Counsel for the respondent-assesee concedes that the reasoning given by the Tribunal in paragraphs 6 to 9 is incorrect as the return for the Assessment Year 2001-02 was processed under Section 143(1) and was not subjected to scrutiny assessment under Section 143(3) of the Income Tax Act, 1961. Thus, the finding that this was a case of mere change of opinion cannot be sustained.

2. Learned counsel for the respondent-assesee, however, clarifies that the statement is made without prejudice to the rights and contentions of the

respondent-assessee that the ‘reasons to believe’ itself do not justify re-opening and are invalid. He states that the matter may be remanded to the Tribunal to decide the question of reopening as well as on merits of the additions made by the Officer.

3. Learned counsel for the Revenue states that this would be acceptable. This statement is also without prejudice to the rights and contentions of the Revenue.

4. Taking the statements of the counsel for the respondent and the Revenue on record, we set aside the impugned order with an order of remand to the Tribunal to decide the question of reopening and merits of the assessment order. In these circumstances and in view of the concessions made by the parties, we are not framing any substantial question of law.

5. Appeal is disposed of, without any order as to costs.

SANJIV KHANNA, J.

ANUP JAIRAM BHAMBHANI, J.

DECEMBER 13, 2018

MR/VKR