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

\+ ITA 1113/2017 and CM APPLS.44222-44223/2017

SH. SURINDER MALIK ..... Appellant

Through Mr. Y.K. Kapur, Mr. A.K. Mehta and Mr. Amit Kumar Singh, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX ..... Respondent

Through Mr. Zoheb Hossain, Sr. Standing Counsel and Mr. Deepak Anand, Jr. Standing Counsel.

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

O R D E R

% **06.02.2018**

Issue notice. Mr. Zoheb Hossain, ld. Sr. Standing Counsel accepts notice.

With the consent of the ld. counsel for the parties, the appeal was heard finally.

The assessee's grievance is limited to the fact that Income Tax Appellate Tribunal (ITAT) remitted question as to verification of quantum, which it is entitled to claim deduction of 80IA(10) of the Income Tax Act, 1961 ('the Act'). The findings recorded by the Authorities below i.e. CIT(A) and ITAT - after a remand order by the latter was that Section 80IA(8) was applicable. The CIT(A) rendered findings based upon all the relevant materials, which favoured the assessee. The ITAT was of the opinion that although, the appellant's eligibility for the benefit of Section 80IA stood established, nevertheless the question of quantum of profits allowable is required to be re-considered and remitted the matter for fresh consideration to the Assessing Officer (AO).

This Court, having regard to the circumstances, Assessment Year is 2006-07 and given that the matter had been remitted once previously, is of the opinion that the entire issue (upon which the remit has been directed) should be re-considered by the ITAT itself. If need be, it can obtain the necessary details from the AO, in accordance with law. The impugned order is accordingly modified. The ITAT is directed to consider for itself the issues that were remitted to the AO.

The appeal is allowed in the above terms. All the pending applications also stand disposed off.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 06, 2018
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