$~18, 23 & 24

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

\+ ITA 21/2018, CM APPL.934/2018
ITA 26/2018, CM APPL.936-937/2018
ITA 27/2018, CM APPL.938-939/2018

THE PR. COMMISSIONER OF INCOME TAX -9 ..... Appellant
Through: Mr. Ruchir Bhatia, Sr. Standing Counsel.

versus

WRIGLEY INDIA PRIVATE LIMITED ..... Respondent
Through: None.

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

ORDER

% **10.01.2018**

In these appeals, the revenue is aggrieved by the ITAT's findings that the expenditure which resulted in bringing to tax the various amounts of the concerned assessment years were in fact constituted AMP elements that were taxable. The ITAT had ruled - based upon the judgment of this Court in *Maruti Suzuki Ltd. v. CIT* (2016) 381 ITR 117 (Del) - that there was no international transaction in the AMP expenditure involved that is sought to be brought to tax. It is stated that the Revenue has preferred an application for rectification under Section 254 (2).

In the circumstances, having regard to the decision of the Court, the merits of the revenue appeals are kept open for the years 2007-08, 2008-09 and 2009-10. However, it should first exhaust its remedy by way of rectification application and if aggrieved by the order made by the ITAT in those proceedings, it can approach this Court in appropriate proceedings. In such eventuality, if the Revenue's grievance with respect to the questions urged in these appeals subsist, it is open for it to urge those grievances as well.

The Court would obviously take into consideration the pendency of the miscellaneous application under Section 254, if the issue of delay crops up at that stage.

The appeals are disposed of in the above terms.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 10, 2018
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