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

\+ ITA 251/2018 & CM APPL.7583/2018

PR. COMMISSIONER OF INCOME TAX (CENTRAL) – 3 ..... Appellant

Through Mr. Zoheb Hossain, Sr. Standing Counsel.

versus

M/S ADDAGIO OVERSEAS ..... Respondent

Through None.

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

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

% **26.02.2018**

The question of law urged by the Revenue in this case is that the Income Tax Appellate Tribunal (ITAT) fell into error in rejecting its application for restoration of the appeal. The Revenue's appeal was rejected on the ground of low tax effect (i.e. below ₹10 lac), by an order dated 17.11.2016. The Revenue applied for restoration of the appeal subsequently (M.A. No. 230/Del/2017). On the date listed for hearing however, it was not represented – as was the case of the assessee. The application was consequently rejected.

The Revenue urges that ITAT's order is contrary to Rule 34A(4) which mandates that every application needs to be disposed of on the merits through a reasoned order.

In the present case, the Court notices that the AO had brought to tax certain amounts on the ground that they were prior to the expenses, however, CIT(A) corrected that order stating that amounts shown were by mistake and were in fact bad debts. The ITAT dismissed the appeal on the ground of low tax effect, having regard to these facts. The Court is of the opinion that no substantial question of law arises. The appeal is consequently dismissed. However, the question whether the ITAT's order in such circumstances is valid on account of Rule 34A(4), is left open.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 26, 2018
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