IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

ITA-78-2019 (O&M)

Date of Decision: 16.5.2019

The Principal Commissioner of Income Tax, Gurgaon

....Appellant.

Versus

M/s Mitsubishi Electric Automotive India Pvt. Ltd., Manesar, Gurgaon

...Respondent.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Tajender K. Joshi, Sr. Standing Counsel for the appellant.

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AJAY KUMAR MITTAL, J.

1. This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 against the order dated 22.6.2018 (Annexure A-4) passed by the Income Tax Appellate Tribunal, Delhi Bench: 1-I, New Delhi (hereinafter referred to as "the Tribunal") in SA No. 452/DEL/2018 IN ITA No. 312/Del/2015, for the assessment year 2010-2011, claiming the following substantial questions of law:-

1. Whether the Hon'ble ITAT has acted in contravention of the Second Proviso of Section 254(2A) of the Income Tax Act, 1961, as the combined period of stay has exceeded 365 days?
2. Whether the order of the ITAT be treated as void-ab-initio in light of Third Proviso to Section 254 (2A) of the Income Tax Act, 1961 which provides

that stay of demand stands vacated after expiry of a period of 365 days, even if delay in disposal of appeal is not attributable to the assessee?

2. We have heard learned counsel for the revenue.

3. It was not disputed by the learned counsel for the appellant-revenue that the matter in issue is no longer *res integra* and stands concluded by the decision of this Court in **ITA-5-2016** decided on 25.4.2016 whereby identical question as claimed in the present appeal, has been held not to be substantial question of law.

4. For the reasons recorded in the aforementioned appeal, the present appeal is also dismissed.

(AJAY KUMAR MITTAL)
JUDGE

May 16, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**