$~50

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

\+   **ITA 600/2019**

THE PR. COMMISSIONER OF INCOME TAX -7 ..... Appellant
Through Mr. Ruchir Bhatia, Advocate

versus

OXIGEN SERVICES INDIA PVT. LTD ..... Respondent
Through None

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

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

% **09.07.2019**

1. This Appeal by the Revenue is directed against the order dated 7th January, 2019 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 3812/Del/2015 for the Assessment Year 2009-2010.

2. Two questions are sought to be urged by the Revenue. The first concerns the ITAT upholding the order of the Commissioner of Income Tax (Appeals) ['CIT(A)'] deleting the disallowance of depreciation claimed at a higher rate of 60% on point of service (POS) terminals by the Assessee.

3. As far as this question is concerned, the issue stands decided against the Revenue by the decision of this Court dated 20th September, 2016 in ITA No.542/2016 ***(Principal Commissioner of Income Tax-2 v. Connaught***

***Plaza Restaurant (P) Ltd*.)** Consequently, no question is framed in this regard.

4. The other issue concerns the ITAT upholding the decision of the CIT (A) in deleting the disallowance of the expense incurred in Software development and upgradation. The ITAT rightly upheld the order of the CIT (A) treating the expenditure as revenue in nature and allowed it as such. Consequently, the Court is not persuaded to frame any question in this regard as well.

5. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 09, 2019
mw