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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 342/2006**

HINDUSTAN COCA COLA BEVERAGES ..... Appellant
Through: Mr Sachit Jolly, Mr Sidharth Joshi and Mr Arush Bhatia, Advocates.

versus

JOINT COMMISSIONER OF INCOME TAX ..... Respondent
Through: Mr Zoheb Hossain, Senior Standing Counsel with Mr Deepak Anand, Junior Standing Counsel for Revenue.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R
% **06.08.2019**

1.This is an appeal by the Assessee against a common impugned order dated 24th March, 2004 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 649 and 650 of 2002 with respect to financial years ('FYs') 1998-99 and 1999-2000.

2. While admitting these appeals on 10th March, 2006, the following question of law was framed for consideration:

> "Whether in the facts and circumstances of the case and in particular clauses 11 and 12 of the Agreement executed between the assessee and Pradeep Oil Corporation, the ITAT was justified in holding that the penalty was rightly levied upon the Assessee u/s 271 C of the Income Tax Act, 1961?"

3. By virtue of a judgment dated 1st August, 2016 of this Court in ITA

No.194/2004, involving the same Assessee (***Hindustan Coco-Cola Beverages Pvt. Ltd. v Joint Commissioner of Income Tax***) with respect to FYs 1998-99 and 1999-2000, the issue has been decided in favour of the Assessee and against the Revenue.

4. Consequently, the question framed is answered in the negative i.e. in favour of the Assessee and against the Revenue.

5. Appeal is accordingly allowed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 06, 2019
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