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

\+ ITA 789/2023 & CM APPL. 66055/2023 (stay)

KRAFT HEINZ FOODS COMPANY-EARLIER KNOWN AS H.J.HEINZ COMPANY, USA .....Appellant

Through: Mr. Salil Kapoor, Ms. Ananya Kapoor and Mr. Sumit Lalchandani, Advocates.

versus

COMMISSIONER OF INCOME TAX -INTERNATIONAL TAX-2 .....Respondent

Through: Mr. Sunil Kumar Agarwal, SSC with Mr. Shivansh B. Pandya, Mr. Viplav Acharya, JSCs and Mr. Utkarsh Tiwari, Advocate.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **10.09.2024**

1. The appellant-assessee impugns the order of the Income Tax Appellate Tribunal [‘**Tribunal**’] dated 01 August 2023. We had taken note of the stand as proposed to be taken by the appellant in our order of 08 January 2024 and which reads as follows: -

> “1. Learned counsel for the appellant submits that the impugned order dated 01 August 2023 in TTA No. 2694/MUM/2016 has come to be passed solely on the ground that the appellant here had sought adjournment of proceedings pending disposal of Miscellaneous Application Nos. 861 & 862/Del/2019 which had been moved before the Income Tax Appellate Tribunal |-ITAT"|, Delhi and pertained to Assessment Year 2012-13. A reading of the impugned order would indicate that the appellant chose not to address any submissions and merely pressed its application for the proceedings being adjourned.

2. We have also gone through the Miscellaneous Applications which are stated to have been filed and which would indicate that it pertains to the merits of the view that was taken by the ITAT and stood embodied in the order of 23 August 2019.

3. It is in the aforesaid backdrop that learned counsel today contends that they would be ready and willing to argue the matter on merits before the ITAT in the meanwhile.

4. In light of the aforesaid, we accord Mr. Agarwal, learned counsel representing the respondent to obtain instructions.

5. Let the appeal be called again on 01.02.2024."

2. That prayer is reiterated before us today with Mr. Kapoor, learned counsel appearing for the appellant on instructions stating that the appellants undertake not to seek any adjournment before the Tribunal merely because of the pendency of the Miscellaneous Applications for Assessment Years ['**AY**'] 2009-10 and 2011-12. In view of the aforesaid, a request is made for the appellant being accorded an opportunity to press the appeal on merits before the Tribunal.

3. In view of the statement that has been made before us and which is recorded and accepted, we allow the instant appeal and set aside the order of the Tribunal dated 01 August 2023.

4. The appeal shall, consequently, stand revived before the concerned Tribunal which shall now proceed to examine the matter on merits and without being deterred by pendency of Miscellaneous Applications for the other AYs.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

SEPTEMBER 10, 2024/*vp*