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

\+ ITA 451/2025

FREUDENBERG-NOK PVT. LTD. (ERSTWHILE SIGMA FREUDENBERG-NOK PRIVATE LIMITED)

.....Appellant

Through: Mr. Karanjot Singh Khurana, Mr. Tanmay Bhatnagar, Mr. Shivam Gupta and Mr. Aman Malhotra, Advs.

versus

ADDL. COMMISSIONER OF INCOME TAX, SPECIAL RANGE-8, NEW DELHI

.....Respondent

Through: Mr. Vipul Agrawal, SSC

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 08.12.2025

1. This appeal lays a challenge to an order passed by the Income Tax Appellate Tribunal (ITAT) dated 28.04.2025, in ITA No. 2088/DEL/2023 relatable to the Assessment Year 2016-17.

2. On 22.09.2025, we had passed the following order:

1. "Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.
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3. Issue notice. Mr Vipul Agrawal, learned SSC for the Revenue accepts notice.
4. The challenge in this appeal under Section 260A of the Income Tax Act, 1961 (the Act) is to an order dated 28.04.2025 passed by the Income Tax Appellate Tribunal (ITAT) whereby

the appeal filed by the appellant / assessee is dismissed by the ITAT.

5. The submission of Mr S Vasudevan, learned counsel for the appellant is that the Assessing Officer, the Commissioner of Income Tax (Appeal), and even the ITAT have erred in deciding the issue without going into the merits by relying upon the previous determination by the ITAT, which became the subject matter of the appeals being ITA No.80/2009, 649/2009 and 1046/2010, in this Court which in effect, were disposed of because of the low tax effect and also noting the submissions made by the learned counsel for the appellant that there are no additions that have been made in the subsequent years. In fact, liberty was granted to the appellant to seek revival of the above appeals in the eventuality there were changed circumstances.

6. He also draws our attention to order dated 24.04.2019 passed by this Court in the aforesaid appeals to contend that in the application for revival of the aforesaid appeals, the Court has passed the order to the following effect:-

> *"The appellant in these appeals seeks restoration in view of the order made on 20th September, 2018. These three appeals are for the years 2003-04, 2004-05 and 2005-06. The Court had recorded the appellant/ assessee's statement that since the amounts involved were small and the tax effect even less, they would not press the appeals; at the same time, it had been indicated that in case of change in the circumstances later, it is open for the appellants to revive the appeal.*
>
> *It is urged on behalf of the assessee that in the subsequent order, i.e. for A.Y.2016-17, the Assessing Officer has again followed the reasoning, which persuaded him to attribute 25% of royalty as the income assessable in the hands of the assessee which ought to be brought to tax. It is submitted that this prejudiced the assessee as the order of 20th September, 2018 to that extent precludes the assessee from urging the question on the merits of the error in attribution of 25%.*

This Court is of the opinion that the applicant/ assessee's right to question the attribution of 25%, and other matters connected with it, can be gone into for later years in the appeal proceedings, unhindered by the withdrawal of its appeal recorded by the order dated 20th September, 2018. In other words, the CIT(A) shall examine the merits of the assessee's contentions and not merely rest the reasoning on the basis of the said order of this Court, permitting withdrawal.

The applications are disposed of in light of the above clarification."

7. He reiterates his submission that despite the directions of the Court, ITAT has decided the appeal on the basis of the outcome of the appeal filed by the appellant/assessee before the ITAT/this Court concerning the Assessment Years (AY) 2003-04, 2004-05, and 2005-06.

8. The submission of the appellant is that appropriate shall be that the order of the ITAT be set aside and the matter be remanded back to the Assessing Officer for fresh determination on merits.

9. Mr Vipul Agrawal, learned SSC seeks time to take instructions on this aspect.

At his request, list on 15.10.2025. "

3. Mr. Vipul Agarwal states that appropriate be that this Court decides the issue which falls for consideration in this appeal inasmuch as, it is the case of the appellant that despite the order dated 24.04.2019 passed by this Court which has been quoted in paragraph 6 of the order dated 22.09.2025, neither the CIT(A) nor the ITAT have followed the mandate to decide the issue without being influenced by the outcome of the proceedings for the AY 2003-04, 2004-05 and 2005-06.

4. Having heard the learned counsel for the parties, we are of the view that a perusal of the impugned order would suggest that the Tribunal has

only followed the earlier orders passed in the case of assessee which primarily relates to the AYs 2003-04, 2004-05 and 2005-06. In other words, the Tribunal did not decide the case without being influenced by the outcome of the proceedings for the said AYs

5. The submission of the learned counsel for the petitioner as noted in the order dated 22.09.2025 is that the matter relatable to the AY 2016-17 need to be remanded back to the AO for him to decide the same afresh without being influenced by the outcome of the proceedings of AYs 2003-04, 2004-05, 2005-06.

6. We find that the said submission as reasonable, more so, when this Court had expressed itself in the order dated 24.04.2019. Accordingly, we set aside the impugned order dated 28.04.2025 passed by the ITAT in 2088/Del/2023 for the AY 2016-17 and remand the matter back to the AO who shall decide the same without being influenced by the outcome of the proceedings in respect of the aforesaid three AYs i.e. AYs 2003-04, 2004-05 and 2005-06 in accordance with law.

V. KAMESWAR RAO, J

VINOD KUMAR, J

DECEMBER 08, 2025

ss