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

+ ITA 917/2017, CM APPL.39179-39180/2017
ITA 918/2017, CM APPL.39106-39107/2017

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI-2... Appellant
Through: Mr. Rahul Kaushik, Advocate.

versus

CONTAINER CORPORATION OF INDIA LTD. Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

31.10.2017

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1. The Revenue urges four questions in its appeal under Section 260A. The first relates to addition on account of the sums received upon encashment of bank guarantees. The ITAT held that such additions were unjustified because the income could not be approved as the dispute is pending litigation and final adjudication before the Court.

2. This Court is of the opinion that the reasoning of the ITAT is in accord with sound principles and previous judgments. No question of law arises on this score.

3. The second question urged is with respect to depreciation of claim in respect of assets not registered in the name of the assessee. Here the ITAT factually found that the assessee had paid all amounts to the transferor and had obtained possession. The assessee was also using the premises for its business purposes. The determination of this question is, therefore, essentially factual. No question of law arises.

4. The third question relates to the exemption under Section 80IA. The exemption claimed for the Inland Container Depot (ICD), Container Freight Station (CFS) and rolling stock. Here again the Revenue's contentions were rejected for previous years in *Container Corporation of India Ltd. v. ACIT*, 346 ITR 140. So far as the rolling stock is concerned, ITAT has relied upon its previous ruling.

5. The last question urged is with respect to amortized depreciation. The ITAT correctly, in our opinion, applied Section 32 of the Income Tax Act, 1978. No question of law, therefore, arises.

6. In ITA 918/2017, the additional question urged is with respect to depreciation of land to the tune of ₹2,59,12,954/-. The ITAT was of the opinion that the lower authority had not considered the applicability of Section 32(1)(ii) and, therefore, remitted the matter for fresh consideration. Accordingly, no ground to interfere with the remit order arises.

7. In view of the above discussion, there is no merit in these appeals; they are accordingly dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

OCTOBER 31, 2017
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