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

+ ITA 773/2006

THE COMMISSIONER OF INCOME TAX .....

.....Appellant

Through:Mr.R.D.Jolly, Advocate.

versus

PEARLS INTERCONTINENTAL LTD ..... Respondent

Through:Mr.M.P.Rastogi &amp;

Mr.K.N.Ahuja, Advocates.

**CORAM:****HON'BLE MR. JUSTICE VIKRAMAJIT SEN****HON'BLE DR. JUSTICE S. MURALIDHAR****ORDER**

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**16.11.2006**

Admit.

After hearing learned counsel for the parties, the following  
substantial questions of law arise for our consideration -

"1. Whether the Tribunal was right in deleting the penalty imposed under Section 271 (1) (c) of the Income Tax Act, 1961, on the ground that the total income of the assessee has been assessed at a minus figure/loss?"

"2. Whether the Tribunal was justified in holding that the judgments in Prithipal Singh's case (1990) 85 CTR (P&H) 26 : (1990) 183 ITR 69 (P&H) and (2001) 166 CTR (SC) 187 : (2001) 249 ITR 670 (SC) will apply even after insertion of Explanation 4 to Section 271 (1) (c) of the IT Act, 1961, w.e.f. 1<sup>st</sup> April, 1976?"



In view of the decision of this Court in *Commissioner of Income Tax vs. Aditya Chemicals Ltd & Ors. (2005) 197 CTR (Del) 241* learned counsel for the parties have agreed that the matter should be remanded to the Income Tax Appellate Tribunal for a decision on merits in accordance with paragraph 19 of the Judgment delivered by this Court.

The appeal is disposed of accordingly.

A handwritten signature in black ink, appearing to read 'Vikramajit Sen'.

VIKRAMAJIT SEN, J

A handwritten signature in black ink, appearing to read 'S. Muralidhar'.

S. MURALIDHAR, J

NOVEMBER 16, 2006

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