2010:DHC:4671-DB

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

\+ ITA 277/2010

COMMISSIONER OF INCOME TAX ..... Appellant
Through Mr. Sanjeev Sabharwal, Senior Standing Counsel.

versus

FIDELITY TECHNOLOGY INDIA PVT. LTD. ..... Respondent
Through None

% Date of Decision : 20th September, 2010

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment? No.
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the Digest? No.

J U D G M E N T

MANMOHAN, J

CM APPL. 3236/2010

This is an application for condonation of delay in refiling the appeal.

For the reasons stated in the application, delay in refiling the appeal is condoned.

Accordingly, the application stands disposed of.

ITA 277/2010

1. The present appeal has been filed under Section 260A of Income Tax Act, 1961 (for brevity "Act, 1961") challenging the order dated 22nd August, 2008 passed by the Income Tax Appellate Tribunal (in short "Tribunal") in ITA No. 1943/Del/2007 for the Assessment Year 2003-2004.

2. Mr. Sanjeev Sabharwal, learned senior standing counsel for Revenue submitted that the Tribunal had erred in law in deleting the addition of Rs. 51,78,289/- made by the Assessing Officer by disallowing the liability on account of foreign exchange fluctuation.

3. However, upon a perusal of the file, we find that the Tribunal has decided the matter against the Revenue relying upon the Division Bench judgment of this Court in ***CIT Vs. M/s. Woodward Governor India (Pvt.) Ltd., (2007) 294 ITR 451 (Del.)***. It is pertinent to mention that the aforesaid judgment has also been affirmed by the Supreme Court in ***CIT Vs. Woodward Governor India (Pvt.) Ltd., (2009) 312 ITR 254 (SC)***.

4. Consequently, as the issue involved in the present proceedings is no longer *res integra*, the present appeal is dismissed *in limine*.

MANMOHAN, J

CHIEF JUSTICE

SEPTEMBER 20, 2010

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