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

+ ITA 816/2010

GOYAL IMPEX & INDUSTRIES LTD Appellant
Through Mr. V N Jha, Adv.

versus

COMMISSIONER OF INCOME TAX Respondent
Through Mr. N P Sahni, sr. standing counsel

+ ITA 207/2011

CIT Appellant
Through Mr. N P Sahni, sr. standing counsel

versus

GOYAL IMPEX & INDUSTRIES LTD Respondent
Through Mr. V N Jha and Ms. Manasvini Bajpai, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE R.V.EASWAR

% **ORDER**
25.07.2012

The question involved in this appeal is to the admissibility of the DEPB credit whether it is chargeable under Section 28(iiid) of the Income Tax in the year in which it was applied for against exports and the consequential amendment by inserting the 3rd proviso to section 80HHC.

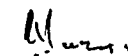
2. As far as the other question arising for consideration in ITA 816/2010 is concerned, i.e., the question of the legality of the order under Section 263, does not arise for consideration in view of the fact that order dated 20.3.2006 of the Tribunal had become final. This Court had granted opportunities to counsel to seek instructions to withdraw the appeal in the light of the decision in Topman Exports (supra), however no



instructions are forthcoming. In view of the said position with regard to the applicability of Section 263 no question arises for consideration. Therefore there does not arise any substantial question of law. This appeal is accordingly dismissed.

3. This court has been apprised of the decision of the Supreme Court in *Topman Exports Vs. Commissioner of Income Tax* (2012) 342 ITR 49 (SC). Following the said decision the Assessing Officer is directed to compute the deduction under Section 80HHC in the case of the assessee in accordance with law. The appeal ITA No.207/2011 is allowed on the above terms.


S. RAVINDRA BHAT, J


R.V.EASWAR, J

JULY 25, 2012
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