



S-11-12

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

1 ITA 810/2010

ITA 813/2010

COMMISSIONER OF INCOME TAX

Through Mr. Abhishek Maratha, S

Counsel with Ms. Anshul Sharma

Versus

BHARAT HEAVY ELECTRICAL LIMITED .....

Through Mr. S Krishnan, Adv.

**CORAM:**

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.V.EASWAR

**ORDER**

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**11.09.2012**

We have heard learned counsel for the parties.

The respondent urges that in some of the cases, permission of the Committee of the Secretaries and consequently, the appeals should be allowed. Reliance is also placed upon a decision in *Gas Authority of India Ltd. v. State of Andhra Pradesh*, 2000 (1) SCC 86/2000. This Court is of the opinion that since the questions arise in more than one assessment years, it will be appropriate that the appeals are allowed. The application is therefore allowed.

The Revenue claims to be aggrieved by an order of the Tribunal dated 20<sup>th</sup> March, 2009 vide no. 365/Del/98 (in ITA 810/2010) and dated 10<sup>th</sup> April, 2009 vide no. 3461/Del/99 (in ITA 813/2010). The question of law sought to be referred is the correctness of the Tribunal's decision allowing provision for anticipatory

During the course of submissions, it was brought to the notice of the Tribunal that the IIT by subsequent order passed in M A No. 250/Del/2010 (in ITA No. 313/2010) for assessment year 1988-89, the subject matter of ITA No. 313/2010



Court). has since rectified its order in exercise of jurisdiction under S restored the matter for decision, after a fresh hearing on the question anticipatory loss. That order of the Tribunal was made in M A No 18<sup>th</sup> March, 2011.

This position has not disputed by counsel for the appellant.

Since the main order for the assessment year 1988-89 relied upon in the impugned order in the present appeal, has been recalled and the for re-hearing, ITA Nos. 810/2010 and 813/2010 are accordingly disp to the Revenue to prefer applications under Section 254 (2) provided it period of limitation. The appeals ITA 810/2010 and 813/2010 are above terms.

S. RAVIN

R.V

SEPTEMBER 11, 2012

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