



\$~R-1A, 1B & 1C

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

+ ITA Nos. 80/2009, 649/2009 & 1046/2010

SIGMA FREDUDENBERG NOK PVT. LTD. Appellant
Through Mr. S. Vasudevan & Mr. Shashank
Sharma, Advocates.

versus

COMMISSIONER OF INCOME TAX DELH & ANR... Respondents
Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

20.09.2018

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Counsel for the appellant-assessee states that he has obtained instructions, which are to the following effect:-

“In view of the small tax amount, the appellant-assessee is not inclined to press these appeals.”

It is stated that this statement is being made as no additions have been made in subsequent years. Thus, the issue is not of re-occurring nature. He, however, states that in case there is change in the stand of the Revenue, the appellant-assessee should be given liberty to file an application for revival of these appeals.

We take the aforesaid statement on record and dispose of the present appeals, giving liberty to the appellant-assessee to ask for revival of these appeals in case of change of circumstances. There would be no order as to



costs.

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SANJIV KHANNA, J.

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CHANDER SHEKHAR, J.

SEPTEMBER 20, 2018

VKR(2)

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\$~55 to 57

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

+ **ITA 80/2009**

SIGMA FREDUDENBERG NOK PVT. LTD Appellant

Through: Mr.Saurav Sood and Mr. Shashank
Sharma, Advocates.

versus

COMMISSIONER OF INCOME TAX DELHI & ANR.... Respondents

Through: Mr. Deepak Anand, Advocate,
Jr.Standing Counsel for Mr.Zoheb
Hossain, Advocate, Sr.Standing Counsel.

+ **ITA 649/2009**

SIGMA FREUDENBERG NOK PVT. LTD. Appellant

Through: Mr.Saurav Sood and Mr. Shashank
Sharma, Advocates.

versus

COMMISSIONER OF INCOME TAX & ANR..... Respondents

Through: Mr. Deepak Anand, Advocate,
Jr.Standing Counsel for Mr.Zoheb
Hossain, Advocate, Sr.Standing Counsel.

+ **ITA 1046/2010**

SIGMA FREUDENBERG NOK PVT LTD Appellant

Through: Mr.Saurav Sood and Mr. Shashank
Sharma, Advocates.

versus

COMMISSIONER OF INCOME TAX Respondent

Through: Mr. Deepak Anand, Advocate,
Jr.Standing Counsel for Mr.Zoheb
Hossain, Advocate, Sr.Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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24.04.2019



(13)



C.M.APPL.18833/2019 (for restoration) in ITA 80/2009
C.M.APPL.18834/2019 (for restoration) in ITA 649/2009
C.M.APPL.18835/2019 (for restoration) in ITA 1046/2009

The appellant in these appeals seeks restoration in view of the order made on 20th September, 2018. These three appeals are for the years 2003-04, 2004-05 and 2005-06. The Court had recorded the appellant/assessee's statement that since the amounts involved were small and the tax effect even less, they would not press the appeals; at the same time, it had been indicated that in case of change in the circumstances later, it is open for the appellants to revive the appeal.

It is urged on behalf of the assessee that in the subsequent order, i.e. for A.Y.2016-17, the Assessing Officer has again followed the reasoning, which persuaded him to attribute 25% of royalty as the income assessable in the hands of the assessee which ought to be brought to tax. It is submitted that this prejudiced the assessee as the order of 20th September, 2018 to that extent precludes the assessee from urging the question on the merits of the error in attribution of 25%.

This Court is of the opinion that the applicant/assessee's right to question the attribution of 25%, and other matters connected with it, can be gone into for later years in the appeal proceedings, unhindered by the withdrawal of its appeal recorded by the order dated 20th September, 2018. In other words, the CIT(A) shall examine the merits of the assessee's contentions and not merely rest the reasoning on the basis of the said order of this Court, permitting withdrawal.

The applications are disposed of in light of the above clarification.


S. RAVINDRA BHAT, J

PRATEEK JALAN, J

APRIL 24, 2019/*mr*