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

+ ITA 226/2020 & CM APPLs. 33423-424/2020

YUM RESTAURANTS MARKETING
PVT. LTD.

..... Appellant

Through: Mr. M.S. Syali Senior Adv. With
Mr. Mayank Nagi, Mr. Tarun Singh
and Mr. Pulkit Verma, Advocates.

versus

PRINCIPAL COMMISSIONER OF
INCOME TAX-9,

.... Respondent

Through: Mr. Abhishek Maratha, Sr. Standing
Counsel.

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Date of Decision: 19th July, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The appeal has been heard by way of video conferencing.
2. Present appeal has been filed under Section 260A of the Income Tax Act, 1961 against the order dated 09th September, 2019 passed by the 'D' Bench of Income Tax Appellate Tribunal, New Delhi in ITA No.3235/Del/2005 for the Assessment Year 2001-2002. The Tribunal in its impugned order has held as under:

“41. Considering the above facts and case laws, there is no applicability of doctrine of diversion of income by overriding title in this case. This plea of diversion of



income by overriding title was admittedly raised by the assessee before the High Court. Once the order is passed by the High Court in a matter, the said pleading cannot be entertained afresh by the Hon'ble Tribunal. Moreover, the plea of the assessee with regard to diversion of income by overriding title also, assessee has no case."

3. Keeping in view the aforesaid findings, this Court is of the view that no substantial question of law arises for determination in the present proceedings.
4. Accordingly, the present appeal along with pending applications are dismissed.
5. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail

MANMOHAN, J

NAVIN CHAWLA, J

JULY 19, 2021
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