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

+ ITA 543/2016

PRINCIPAL COMMISSIONER OF INCOME TAX - 7 ..... Appellant  
Through: Mr. Sanjay Kumar, Advocate.

versus

M/S RAJASTHAN EXPLOSIVES & CHEMICALS LTD.

..... Respondent

Through: Ms. Ananya Kapoor with Mr. Sumit  
Lalchandani, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**ORDER**

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**24.10.2017**

1. The Revenue in this appeal under Section 260A of the Income Tax Act, 1961 questions the decision of the Income Tax Appellate Tribunal ("ITAT").

2. The ITAT set aside the findings of the lower authorities denying the carry forward of losses and depreciation for AY 2001-02. The narrow ground on which these benefits were denied was that the assessee/company which had been declared sick and was facing the supervision under the Board for Industrial and Financial Reconstruction ("BIFR") was subject to above scheme that ended on 31.03.2000. The returns filed by the assessee were rejected as belated.

3. The assessee had applied under Section 154 contending that the

period for filing returns was extended by BIFR by one year till 31.12.2001, apparently, after duly following all formalities including notice to the Income Tax Department. It was, therefore, stated that having regard to these circumstances and the important fact that a new management has been placed in position and furthermore that the fresh scheme was sanctioned in 1996, it was in the larger interest of justice to permit the carry forward of losses and depreciation.

4. Learned counsel emphasized that the rejection of the Section 154 application moved by the company in the circumstances have attained finality and having regard to these facts the ITAT's decision is unsupportable in law.

5. The Court is of the opinion that both the lower authorities did not give sufficient weightage to the fact that BIFR extended the period for filing the returns till 31.12.2001. This was expressly recognizing the fact that a new management had taken charge in 1996 pursuant to the freshly approved scheme and furthermore that the carry forward of losses and depreciation was an important component and rehabilitation plan contemplated by the parties.

6. Having regard to the totality of circumstances, the ITAT, in our opinion, correctly inferred that the denial of the benefit to the assessee was not justified. No substantial question of law arises. The appeal is, therefore, dismissed.

**S. RAVINDRA BHAT, J**

**OCTOBER 24, 2017/vikas/**

**SANJEEV SACHDEVA, J**