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

**R-41**

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**ITA 2/2002**

C.I.T.

..... Appellant

Through: Mr Rohit Madan and Mr Akash Vajpai,  
Advocates.

versus

M/S OSWAL AGRO MILLS LTD.

..... Respondent

Through: Mr Prakash Kumar, Advocate.

**CORAM:**

**HON'BLE DR. JUSTICE S. MURALIDHAR**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**04.08.2015**

1. The question framed by the order dated 13<sup>th</sup> March, 2008 by this Court is as under:

“Whether the Assessee is entitled to a deduction of Rs. 1,16,89,327/- incurred as Issue Management Expenses?”

2. It is not in dispute that in *CIT v. Havels India Ltd. ITA 55/2012 & 57/2012* this Court has held that “the expenditure incurred in connection with issue of debentures or obtaining loan” should be considered as revenue

expenditure. In the present case the expenditure incurred is in relation to issuance of convertible bonds. Accordingly, the question framed is answered in the affirmative i.e. in favour of the Assessee and against the Revenue.

3. One other question framed by the order dated 10<sup>th</sup> August, 2004 was whether the order of the Tribunal deleting the addition of Rs.81,21,024/- made in the income of the Assessee by the Assessing Officer is perverse? It is seen that in the impugned order dated 19<sup>th</sup> January, 1993 the ITAT has noticed that the AO had made additions on the basis of the show cause notices issued to the Assessee by the Collector Central Excise. Subsequently, the said show cause notices were dropped by the orders of the Collectors of Central Excise. The ITAT accordingly held that the additions made on the basis of the show cause notices without the AO conducting any independent enquiry could not be sustained.

4. The Court finds that the additions were made only on the basis of the show cause notices issued by the Central Excise authorities which were subsequently dropped. Consequently such additions could not have been sustained. The question accordingly is answered in the affirmative i.e. in

favour of the Assessee and against the Revenue.

5. The appeal is dismissed.

**S. MURALIDHAR, J**

**VIBHU BAKHRU, J**

**AUGUST 04, 2015**  
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