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

**ITA 107/2015**

COMMISSIONER OF INCOME TAX ..... Appellant  
Through: Mr.Rohit Madan, Advocate with  
Mr. Akash Vajpai, Advocate.

versus

LEMON TREE HOTELS LTD ..... Respondent  
Through: Mr. Ved Jain, Advocate with  
Mr. Pranjal Srivastava, Advocate.

**CORAM:**  
**HON'BLE DR. JUSTICE S.MURALIDHAR**  
**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **18.08.2015**

1. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') is directed against the order dated 23<sup>rd</sup> June 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 4588/Del/2013 for the Assessment Year ('AY') 2008-09.
2. The question sought to be projected by the Revenue is whether the ITAT erred in deleting the addition of Rs. 1,28,19,169/- made by the Assessing Officer ('AO') by way of disallowance of the expenses debited as cost of Employees Stock Option ('ESOP') in profit and loss account?

3.The Court has been shown a copy of the decision dated 19<sup>th</sup> June 2012 passed by the Division Bench of Madras High Court in ***CIT-III Chennai v. PVP Ventures Ltd.*** (TC(A) No. 1023 of 2005) where a similar question was answered in favour of the Assessee by holding that the cost of ESOP could be debited to the profit and loss account of the Assessee. This Court has also in its decision dated 4<sup>th</sup> August 2015 in ITA No.2 of 2002 (***CIT v. Oswal Agro Mills Ltd.***) held that the expenditure incurred in connection with issue of debentures or obtaining loan should be considered as revenue expenditure.

4. In the circumstances, the impugned order of the ITAT answering the question in favour of the Assessee is affirmed.

5. No substantial question of law arises in the facts and circumstances of the present case.

6. The appeal is dismissed.

**S.MURALIDHAR, J**

**VIBHU BAKHRU, J**

**AUGUST 18, 2015/mg**