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

+ **W.P.(C) 4402//2015**

**INSTITUTE OF PUBLIC HEALTH**

..... Petitioner

Through: Mr. Anand Grover, Sr. Adv. with Mr.  
Ajay Bauri, Adv.

Versus

**UNION OF INDIA & ORS**

.... Respondents

Through: Mr. Akshay Makhija, CGSC for UOI.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**16.10.2015**

**Review Petition No.321/2015**

1. The petitioner / review applicant seeks review of our judgment dated 1<sup>st</sup> May, 2015 dismissing the petition to the extent, (i) the same in paragraph 8 of the judgment observes that the Legislature, while enacting Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) was well aware of India's obligations and duties under the Framework Convention on Tobacco Control (FCTC) ratified by India in the year 1995; and, (ii) the same in paragraph 8 records that we are not shown the power to make the Guidelines or anything to indicate that India has accepted the said Guidelines.

2. Qua the first, it is contended that the petitioner in the petition erroneously stated that FCTC was ratified by India in 1995; it was in fact ratified on 5<sup>th</sup> February, 2004 and the treaty came into force on

27<sup>th</sup> February, 2005 i.e. post the enactment of COTPA.

3. Qua the second, in the review petition it is stated that once a treaty has been ratified, the Guidelines for implementation of the treaty have to be taken into account in interpreting the obligations of the parties thereunder and that in the third session of the year 2008 of the Conference of the Parties, the Guidelines were accepted.

4. The senior counsel for the petitioner / review applicant admits that the grounds on which review is sought, would not affect the final outcome of the petition.

5. In that view of the matter, we deem it appropriate to dispose of this review petition by stating that it would be open to the petitioner / review applicant or anyone else in any other appropriate proceedings, to expound the correct position in this regard. Our observations in paragraphs 8 & 10, of which review is sought, are qualified with “nothing having been shown to us” and premised on the statement of the petitioner / review applicant itself in the petition, of the treaty having been ratified by India in 1995. The said observations cannot change the factual position, if it is otherwise, as now stated by the petitioner / review applicant.

6. With the aforesaid, the review petition is disposed of.

**CHIEF JUSTICE**

**RAJIV SAHAI ENDLAW, J.**

**OCTOBER 16, 2015**

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