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

\+ **ITA 157/2016**

COMMISSIONER OF INCOME TAXDELHI-II ..... Appellant
Through: Mr. P. Roy Chaudhuri, Senior Standing counsel with Ms. Laxmi Gurung, Jr. Standing counsel.

versus

CARGILL FOOD INDIA LIMITED ..... Respondent
Through: Mr. Amit Shrivastava, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **19.02.2016**

1. This appeal under Section 260A of the Income Tax Act, 1961 (‘Act’) is directed against the impugned order dated 10th April 2015 passed by the Income Tax Appellate Tribunal (‘ITAT’) in ITA No. 1460/PN/2010for the Assessment Year (AY) 2006-07.

2. The ground sought to be urged by the Revenue is whether the ITAT was justified in deleting the addition of Rs. 29,70.31,153 made by the Assessing Officer (‘AO’) in terms of the order of the Transfer Pricing Officer (‘TPO’)

in relation to the arm’s length price of its international transaction pertaining to the import of edible oil from the Assessee’s associated enterprise by using the Comparable Uncontrolled Price (‘CUP’) method.

3. As noticed by the ITAT in the impugned order, the ground on which the AO rejected the CUP method adopted by the Assessee was that “the price charged or paid” was on the basis of a broker quote, though based on the prices prevailing in the market, and was not a price charged or paid because it did not reflect the price of an actual transaction.

4. However, as noted by the ITAT, Rule 10 D (3) (c) of the Income Tax Rules, 1962 envisages that the TPO should take into consideration price publications including stock exchange and commodity market quotations. Therefore, such published data available from stock or commodity exchanges could form the basis of the prices in both uncontrolled and controlled transactions.

5. Having heard learned counsel for the parties, the Court is not persuaded to hold that the above reasoning by the ITAT is perverse and suffers from any legal infirmity. No substantial question of law arises for determination.

6. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 19, 2016
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