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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
43.
+ **ITA 148/2016**

M/s. SIS LIVE ..... Appellant
Through: Ms. Rashmi Chopra, Advocate.

versus

ASSISTANT COMMISSIONER OF INCOME TAX ..... Respondent
Through: Mr. Ashok K. Manchanda, Senior Standing counsel with Ms. Vibhooti Malhotra, Advocate.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **09.05.2016**

CM No. 17388/2016 (for early hearing)

1. With the consent of the parties, the appeal itself is taken up for hearing today.

2. The application is disposed of.

ITA No. 148/2016

3. This appeal under Section 260A of the Income Tax Act, 1961 ('Act') is directed against the order dated 2nd December, 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 1313/Del/2015 for the Assessment Year ('AY') 2011-12.

4. The issue concerning the Transfer Pricing adjustment was not adjudicated by the ITAT in the impugned order on the ground that no addition has been made in computing the total income of the Assessee. It is not in dispute that the Assessing Officer ('AO') had in fact set in motion rectification proceedings for the purposes of adjustment on account of the Transfer Pricing issue. Even before the ITAT gave the impugned order, on 26th November 2015 an order of rectification has been passed by the AO making the Transfer Pricing Adjustment for the purposes of computing of income.

5. The short prayer, therefore, is that the impugned order of the ITAT should be set aside and the matter should be remanded to the ITAT for deciding the issue of Transfer Pricing adjustment.

6. In view of the fact that the ITAT had declined to adjudicate the Transfer Pricing issue because no addition has been made by the AO and considering that the AO passed a rectification order on 26th November 2015 making an adjustment on the Transfer Pricing issue, the Court sets aside the impugned order of the ITAT dated 2nd December 2015 and remands the appeal being ITA No. 1313/Del/2015 to the ITAT for a fresh adjudication on the Transfer Pricing adjustment issue in accordance with law.

7. The appeal will now be listed before the ITAT on 1st June 2016. The ITAT is requested to dispose of the appeal within a period of three months thereafter.

8. The present appeal is disposed of in the above terms.

9. The date already fixed stands cancelled. Order *dasti*.

S. MURALIDHAR, J

VIBHU BAKHRU, J

MAY 09, 2016

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