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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
27.
\+ **ITA 235/2016**

PR. COMMISSIONER OF INCOME TAX ..... Appellant
Through: Mr. P. Roy Chaudhuri, Senior Standing counsel with Ms. Lakshmi Gurung, Advocate.

versus

AVAYA INDIA PVT. LTD. ..... Respondent

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>
% **05.04.2016**

<u>CM No. 12612/2016 (for exemption)</u>

1. Exemption allowed subject to all just exceptions.

<u>ITA No. 235/2016</u>

2. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') is against an order dated 18th September 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 5528/Del/2011 for the Assessment Year ('AY') 2007-08.

3. The principal question that is sought to be urged by the Revenue in the present appeal is whether ITAT was justified in remanding the matter to the Assessing Officer ('AO') for undertaking a risk adjustment for the purposes

of the comparability analysis by the Department for determining the arm's length price ('ALP') of the international transaction entered into by the Assessee and its Associate Enterprise. The ITAT has in doing so relied upon the order dated 14th August 2014 passed by it in the case of ***Motorola Solutions India Private Limited v. Deputy Commissioner of Income Tax (ITA No.5637/Del/2011)***. Having heard learned counsel for the Revenue, **t**he Court finds no legal infirmity in the above decision of the ITAT that gives rise to any substantial question of law.

4. Even as regards the other issues urged, the Court is not persuaded to frame a question.

5. The appeal is dismissed.

S. MURALIDHAR, J

VIBHU BAKHRU, J

APRIL 05, 2016
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