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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 340/2016**

PRINCIPAL COMMISSIONER OF
INCOME-TAX-07 ..... Appellant
Through: Mr Sanjay Kumar, Junior Standing counsel for Mr Dileep Shivpuri, Senior Standing counsel.

versus

M/S RAMPGREEN SOLUTIONS PVT. LTD. ..... Respondent
Through: Mr Vaibhav Kulkarni, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

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

% **27.05.2016**

1. This appeal by the Revenue is against the order dated 4th November, 2015 passed by the Income Tax Appellate Tribunal (‘ITAT’) in ITA No.1066/Del/2015 for the Assessment Year (‘AY’) 2010-11.

2. The ITAT by the impugned order allowed the appeal of the Assessee on the question of the correctness of the additions made by the Transfer Pricing Officer (TPO) by way of adjustment of Arms Length Price (ALP) assessing the total income of the Assessee at Rs.112.39 crores as against total income of Rs.98.75 crores declared by the Assessee. In effect, the ITAT has accepted the case of the Assessee regarding the TPO having erred in rejecting the Assessee’s comparability analysis for determining the ALP.

3. The Revenue in this appeal urges that some of the comparables were wrongly rejected and some comparables suggested by the Assessee wrongly accepted by the ITAT. In the impugned order, the ITAT has given detailed reasons. The Revenue is unable to demonstrate that the said reasons qua any of the comparables or the conclusion of the ITAT thereon is perverse. The Court does not find the said issue giving rise to any substantial question of law.

4. As regards the other issue concerning foreign exchange fluctuation loss being considered as part of the operative expenses, the issue stands covered against the Revenue and in favour of the Assessee by the decision of the Supreme Court in ***Commissioner of Income-tax v. Woodward Governor India (P) Ltd. (2009) 312 ITR 254 (SC)***. Likewise, the issue concerning the rate of interest for capital adjustment is covered against the Revenue and in favour of the Assessee in terms of the decision of this Court in ***Cotton Natural (P) Ltd. v. CIT (2015) 276 CTR 44***5. Consequently, no substantial question of law arises in respect of these issues as well.

5. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MAY 27, 2016
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