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* IN THE HIGH COURT OF DELHI AT NEW DELHI

2,5,8&9

\+ **ITA 386/2016**

PR. COMMISSIONER OF INCOME TAX-1 ..... Appellant

Through: Mr. P. Roy Chaudhuri, Senior Standing Counsel.

versus

AVERY DENNISON (INDIA) PVT LTD ..... Respondent

With

\+ **ITA 392/2016**

PR COMMISSIONER OF INCOME TAX-1 ..... Appellant

Through: Mr. P. Roy Chaudhuri, Senior Standing Counsel.

versus

AVERY DENNISON (INDIA) PVT.LTD ..... Respondent

With

\+ **ITA 401/2016**

PR. COMMISSIONER OF INCOME TAX-1 ..... Appellant

Through: Mr. P. Roy Chaudhuri, Senior Standing Counsel.

versus

AVERY DENNISON (INDIA) PVT LTD ..... Respondent

And

\+ **ITA 402/2016**

PR. COMMISSIONER OF INCOME TAX-1 ..... Appellant

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Through: Mr. P. Roy Chaudhuri, Senior Standing Counsel.

versus

AVERY DENNISON (INDIA) PVT LTD ..... Respondent

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE NAJMI WAZIRI

ORDER

% 28.07.2016

1. The challenge in these appeals by the Revenue is to an order dated 4th December 2015 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA Nos. 4869 & 4934/Del/2014 for the Assessment Year ('AY') 2008-09, and ITA Nos. 4868 & 4933/Del/2014 for AY 2007-08.

2. The question urged by the Revenue concerns the determination of the Arms Length Price ('ALP') by the Transfer Pricing Officer ('TPO') of the international transactions involving the Assessee and its Associated Enterprise ('AE'). The Assessee adopted the Transactional Net Margin Method ('TNMM') and had taken Operating Profit/Total Cost as the profit level indicator ('PLI'). The TPO, however, applied the CUP method and proceeded to make adjustment of Rs.3,69,29,533 on the basis of which the AO framed the assessment on 1st February 2011.

3. The Commissioner of Income Tax (Appeals), ['CIT(A)'] on appeal restricted the transfer pricing adjustment to Rs. 1,66,18,290. The contention of the Assessee was that agreement between the Assessee and its AE was a composite one and could not be split up for the purposes of holding that

some services are at arm's length and some are not. The ITAT appears to have agreed with the above contention of the Assessee on viewing the agreement as a whole. It was not within the purview of the TPO to determine if some of the services resulted in any actual benefit to the Assessee or not.

4. Having heard learned counsel for the Revenue at length and having perused the orders of the TPO, CIT(A) and the ITAT, the Court is of the view that the view taken by the ITAT is plausible one and does not warrant any interference.

5. No substantial question of law arises for determination.

6. The appeals are dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

JULY 28, 2016
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