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

\+ **ITA 430/2016**

PR.CIT-VII ..... Appellant

Through: Mr. P. Roychaudhury, Sr. Standing Counsel and Ms Vibhooti Malhotra, Advocate.

versus

QUALCOMM INDIA PVT. LTD. ..... Respondent

Through

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

O R D E R

% **22.07.2016**

CM No. 25825/2016 (Exemption)

1. Allowed subject to all just exceptions.

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2. This appeal by the Revenue is directed against the order dated 6th January, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 6059/Del/2012 for the Assessment Year ('AY') 2008-09.

3. The short issue sought to be projected by the Revenue concerns the exclusion of one comparable in the transfer pricing analysis at the instance of the Assessee. The comparable that is sought to be excluded by the Assessee was Saket Projects Limited (SPL).

4. What appears to have weighed with the ITAT is that the segmental details in the public domain qua SPL for the specific assessment year, that is, 2008-09 was not reliable and this has not been rebutted by the Revenue. A perusal of the order of the Transfer Pricing Officer ('TPO') shows that the assessee sought to exclude this comparable on the issue of high margin.

5. The TPO has negated the plea of the Assessee that the segmental result of this comparable is not dependable since according to the TPO itself, it relates to an event management segment in Schedule 14 of the annual report. The TPO surmised that the annual report does not give any indication that there was any problem in correctly identifying the expenses. It is unlikely that the annual report will indicate any such problem. This would have required a far more detailed inquiry rather than basing conclusions on the annual report. In any event, the Court does not see how the exclusion of a comparable on the above ground by the ITAT can give rise to a substantial question of law for consideration by this court.

6. The appeal is dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

JULY 22, 2016/kk