IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDITION

INCOME TAX APPEAL NO.435 OF 2015

The Commissioner of Income-Tax, (LTU), Mumbai ...**Appellant**
V/s.
M/s.Everest Kanto Cylinder Ltd. ...**Respondent**

.....

Ms.Samiksha Kanani with Mr.Suresh Kumar, Advocate for the Appellant.

Mr.Percy Pardiwalla, Senior Counsel with Mr.Atul K. Jasani, Advocate for the Respondent.

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CORAM : S.V.GANGAPURWALA & A.M.BADAR JJ.

DATED : 18th July 2017.

P.C.

1 The learned counsel for the Appellant and the Respondent are at idem that three questions raised by the Appellant are covered in the Assessee's own case for the earlier Assessment year in Income-Tax Appeal No.1165 of 2013 decided by this Court against the Revenue on 8th May 2015. As far as question No.4 as framed is concerned, the Tribunal has observed as under :

> "In light of the above decisions, the rate to be used for undertaking an adjustment should be LIBOR and not

the average yield rates considered by the learned TPO. The LIBOR rate for March 2008 was 2.6798%. However the assessee has charged 7% from its AE as per the internal CUP available. Thus, the assessee has charged interest to EKC Dubai and EKC china at the rate higher than existing LIBOR rates. Accordingly, the said transaction of providing loan to EKC Dubai and EKC China is at arm's length. Additions made by the AO are accordingly set aside."

2 The said reasoning does not appear to be perverse.

3 In light of above, no substantial question of law arise. The Appeal as such is dismissed. No costs.

(A.M.BADAR J.) **(S.V.GANGAPURWALA J.)**