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

\+ **ITA 185/2017**

THE PR.COMMISSIONER OF INCOME TAX-4 ..... Appellant
Through: Mr. Ruchir Bhatia, Advocate with Mr. Puneet Rai, Advocate.

Versus

M/S GAP INTERNATIONAL SOURCING INDIA LTD. ..... Respondent
Through: Mr. Kamal Sawhney, Advocate with Mr. Shikhar Garg, Mr. Prashant Meharchandani, Advocates.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R

% **24.04.2017**

1. This appeal under Section 260A of the Income Tax Act, 1961 ('Act') by the Revenue is directed against the order dated 10th August, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 6742/Del/2013 for the Assessment Year ('AY') 2006-07.

2. By the impugned order, the ITAT has deleted the penalty imposed by the Assessing Officer as affirmed by the Commissioner of Income Tax (Appeals) - XX, New Delhi by its order dated 12th November, 2013.

3. It is pointed out that in the quantum appeal, the Assessee accepted a figure of 32% of the operational cost for the purpose of Transfer Pricing Adjustment as the cost plus mark-up of the international transactions entered

into by the Assessee with its Associated Enterprise. This was a derived mark-up on the operating cost earned by Li & Fung (India) Private Limited with respect to its global profits.

4. The entire proceedings, therefore, show that there was no deliberate attempt by the Assessee to conceal any income or to underpay tax. The ITAT, in the circumstances, was justified in reversing the order of the Commissioner of Income Tax (Appeals), New Delhi.

5. No substantial question of law arises. The appeal is dismissed.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

APRIL 24, 2017
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