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

\+ **ITA 380/2017**

PR.COMMISSIONER OF INCOME TAX-8 ..... Appellant
Through: Mr. Rahul Kaushik, Senior Standing Counsel.

versus

STERIA INDIA LTD. ..... Respondent
Through: None.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

<u>O R D E R</u>
% **10.07.2017**

1. The two questions urged by the Revenue in this appeal against the order dated 4th November, 2016 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 108/Del/2016 for the Assessment Year (AY) 2011-12 read as under:

> "*A. Whether on facts and in the circumstances of the case the Ld. ITAT was correct in law in holding that the Assessee was not liable to withhold tax under section 195 of the Act on payments made by it to Steria France for management services fee and consequently deleting the disallowance made by Ld. A0 under Section 40(a)(i) of the Act?*
>
> *B. Whether on facts and in the circumstances of the case the Ld. ITAT was correct in law in holding that if a particular item is not part of 'Export Turnover' when it cannot constitute a part of 'Total Turnover' as well?*"

2. As far as the question A is concerned, it same stands answered against the Revenue by the decision of this Court in ***Steria (India) Limited v. Commissioner of Income Tax-VI (2016) 386 ITR 390 (Del).*** The Court accordingly declines to frame the question.

3. As far as issue at B is concerned, it is seen that ITAT has followed its own order in the Assessee's own case for the AY 2009-10 as well as the decision of the Bombay High in ***The Commissioner of Income Tax-8 v. M/s. Gem Plus Jewellery India Ltd. (2011) 330 ITR 175 (Bom)***.

4. Having perused the said judgments, the Court is not persuaded to take a view different from that taken by the ITAT or the Bombay High Court that the total turnover always includes the export turnover and that if a particular item is not part of the export turnover, it cannot constitute a part of the total turnover either.

5. The appeal is, accordingly, dismissed.

S.MURALIDHAR, J.

PRATHIBA M. SINGH, J.

JULY 10, 2017
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