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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **ITA 374/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX, DELHI-8 ..... Appellant
Through: Mr. Rahul Kaushik, Senior standing counsel.

versus

SAMSUNG INDIA ELECTRONICS LTD. ..... Respondent
Through: Mr. Himanshu Sinha with Ms. Vrinda Tulshan, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

<u>O R D E R</u>
% **15.05.2017**

<u>CM APPL 17221/2017 (for exemption)</u>

1. Allowed subject to all just exceptions.

<u>CM APPL 17222/2017 (for delay)</u>

2. For the reasons stated therein, this application is allowed. The delay of 31 days in filing the appeal is condoned.

<u>ITA No. 374/2017</u>

3. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') is directed against the impugned order dated 30th September 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 2261/Del/2009 for the Assessment Year ('AY') 2003-04.

4. It is pointed out by learned counsel for the Appellant-Revenue that barring questions relating to 'royalty' and 'warranty', the other questions that sought to be urged in this appeal stands answered against the Revenue and in favour of the Assessee by this Court by its order dated 18th April 2017 in Revenue's appeal, ITA No. 305 of 2017 against the same impugned common order of the ITAT in ITA No.930/Del/2010 for the AY 2002-03.

5. Now dealing with the two additional questions as far as the present appeal is concerned, one pertains to deletion of an addition of Rs. 21,35,45,197 made by the Assessing Officer (AO) on account of royalty paid to SEC Korea. In answering this question in favour of the Assessee, the ITAT has referred to its earlier order made for an earlier AY involving the same Assessee on this issue. That order has also been upheld by this Court while dismissing the Revenue's appeal, ITA No. 642 of 2016, on the ground of delay.

6. As far as the second question is concerned which is about the Commissioner of Income Tax (Appeals) [CIT(A)] deleting the addition of Rs. 2,29,80,741 made by the AO on account of provision of warranty/after sale service compensation, it is seen that CIT (A) disagreed with the AO that the said provision was made on *ad hoc* basis. The CIT (A) has returned a factual finding that the provision was made on scientific basis.

7. Consequently, this issue too does not give rise to a substantial question of law.

8. Accordingly, the appeal is dismissed.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 15, 2017

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