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

\+ **ITA 767/2017**

COMMISSIONRER OF INCOME TAX
INTERNATIONAL TAXATION-3 ..... Appellant

Through : Mr. Rahul Chaudhary, Senior Standing Counsel for the Income Tax Department.

versus

UT STARCOM INC. (INDIA BRANCH) ..... Respondent

Through : Mr. Prakash Kumar, Advocate.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

ORDER

% 25.09.2017

1. The Revenue is in appeal against an order dated 23rd December 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 5848/Del/2011 for the Assessment Year 2007-08.

2. The following two questions have been urged by the Revenue for consideration:

> "(i) Whether the Tribunal erred in law in directing exclusion of Infosys Technologies Ltd and Kals Information Systems Ltd in respect of Software Development Segment and exclusion of Vishal Information Technology Ltd (now Coral Hub Limited) in respect of IT Enabled Services Segment though all the

> aforesaid companies were functionally similar under Transaction Net Margin Method?
>
> (ii) Whether the Tribunal erred in law in laying down stringent standards of comparability analysis as applicable to traditional methods such as Comparable Uncontrolled Price (CUP) Method for selecting comparables under Transactional Net Margin Method (TNMM)?"

3. Having heard learned counsel for the Revenue, the Court is of the view that the ITAT has given cogent reasons for excluding the aforementioned comparables applying TNMM and its order suffers from no legal infirmity giving rise to any substantial question of law.

4. The appeal is dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 25, 2017

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