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

\+ **ITA 762/2017**

PRINCIPAL COMMISSIONER OF INCOME TAX-8 ..... Appellant

Through: Mr. Rahul Chaudhary, Senior Standing Counsel with Mr. Sanjay Kumar, Junior Standing Counsel.

versus

STERIA INDIA LTD. ..... Respondent

Through: Mr. Neeraj Jain and Mr. Aniket D. Aggarwal, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% 19.09.2017

CM APPL. 32592/2017 (delay in filing)

1. For the reasons as stated in the application, the delay in filing the appeal is condoned. The application is disposed of.

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2. This is an appeal under Section 260A of the Income Tax Act, 1961 ('the Act') filed by the Revenue against the order dated 4th November, 2016 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No.107/Del/2016 for the Assessment Year ('AY') 2010-11.

3. The Revenue in the present appeal has urged the following questions of law:

“A. Whether on facts and in the circumstances of the case the 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. AO under section 40(a)(i) of the Act?

B. Whether on facts and in the circumstances of the case the 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?

C. Whether on facts and in the circumstances of the case the ITAT was correct in law in excluding Tata Elxsi Ltd. as comparable stating that there is no separate information available of this company relating to software development services when the comparable company itself declares its income from 'software development services' and 'sales and support' segments separately in its annual reports?

D. Whether on facts and in the circumstances of the case the ITAT was correct in law in excluding E-infochips Bangalore Ltd. by stating that there is no separate information available of this company relating to software development services and the details of income have been given in a consolidated manner also including IT enabled service segment when the comparable company itself declares it as software development services provider in its annual report at several places?"

4. As far as questions A and B are concerned, they stand answered against the Revenue and in favour of the Assessee by the decision of this Court dated 10th July, 2017 in ITA No. 380/2017 (***Principal Commissioner of Income Tax-8 v. Steria India Ltd.***) in the Assessee's own case for the AY 2011-12.

5. As far as questions C and D are concerned, having heard learned counsel for the Appellant, the Court is not satisfied that the impugned order of the ITAT, which has turned on facts, gives rise to any substantial question of law.

6. The appeal is dismissed.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 19, 2017
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