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

\+ REVIEW PET.523/2017 IN ITA 938/2017

CARGILL FOODS INDIA PVT. LTD. ..... Appellant
Through: Mr. Nageswar Rao with Mr. Sandeep S. Karhail, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX ..... Respondent
Through: Mr. Rahul Chaudhary, Sr. Standing Counsel.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% **19.01.2018**

The review petitioner seeks recall of an order rejecting its appeal. The order sought to be reviewed had after considering the plea of the parties and the impugned order of the ITAT, concluded that no substantial question of law arises.

It is contended in the review petition and counsel urges in support of it today that this Court erred in holding that no substantial question of law arose. Counsel relied upon the grounds of appeal - as highlighted in the review petition - to say that the contentions with respect to appropriateness of the TNMM rather than the CUP (Comparable Uncontrolled Price) was urged but not answered.

Learned counsel also relied upon the *Board of Control for*

Cricket in India v. Netaji Cricket Club (2005) 4 SCC 741 in support of the argument that Court's mistake can include the nature of undertaking or any other aspect which may call for review.

Having considered the order sought to be reviewed and the impugned order of the ITAT, the Court is of the opinion that there is no error apparent on the face of the record. The appellant/review petitioner's submissions with respect to the nature of the transaction and also the appropriateness of the TNMM as well as the feasibility of application of the TNMM method as the "most appropriate method" were not only considered but actually adverted to. The Court also considered and rejected its submissions with respect to the ratio pertaining to cash discount on advance payments and rendered its own opinion. In view of this, the main order of the Court dated 06.11.2017 does not call for review.

The review petition is, therefore, dismissed.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

JANUARY 19, 2018
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