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

\+ ITA 417/2018 & CM APPL. 13878/2018

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL TAXATION-2 ..... Appellant

Through: Mr. Ruchir Bhatia, Advocate.

versus

NORTEL NETWORK INDIA INTERNATIONAL INC. ..... Respondent

Through: Ms. Manasvini Bajpai, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **11.04.2018**

The first question urged by the Revenue in its appeal under Section 260-A of the Income Tax Act, 1961 (hereafter 'the Act') is with respect to the existence of a Permanent Establishment (PE) of the respondent in India; the second, notwithstanding the answer to the first, is with respect to the coverage of the assessee's income by the Indio-US Double Taxation Avoidance Agreement (DTAA); the third and the fourth questions are whether the outgoings towards embedded software constitute royalty within the meaning of the expression of the Indian law.

These questions were considered for a previous Assessment Year 2006-07 and the other years in ITA No.322/2018, 326/2018 and 330/2018. This Court, following the previous rulings on the first three questions and the ruling in the case of *'Commissioner of Income Tax, International Taxation-2 vs. ZTE Corporation',* (2017) 392 ITR 80, by its order dated 20.03.2018 had stated that no question of law arises.

For the same reasons, it is held that no question of law arises in this appeal, which is consequently dismissed along with the pending application.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 11, 2018

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