IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.446 OF 2017

Pr.Commissioner of Income Tax-9 … Appellant

V/s.

M/s Bunge India Pvt. Ltd. … Respondent

Mr.Tejveer Singh Mastan Singh for the Appellant.
Mr.Sanjiv M. Shah for the Respondent.

CORAM : AKIL KURESHI AND
S.J.KATHAWALLA, JJ.
DATE : JUNE 03, 2019.

P.C.:-

1. Revenue has filed this appeal against the judgment of the Income Tax Appellate Tribunal. Following questions were argued at the time of hearing:-

> "(i) Whether on the facts and circumstances of the case and in law, the ITAT was correct in setting aside the adjustment made by the TPO in respect of import of raw material to the file of the TPO, for pro-rata adjustment considering only the AE transactions, when this was not a ground raised either by Revenue or by the assessee and segmental accounts (in respect of AE and non-AE transactions

were not available in the case?
(ii) Whether on the facts and circumstances of the case and in law, the ITAT was correct in facts and circumstances of case and in law, in terms of Rule 10B(1)(e), under the Transaction Net Margin Method (TNMM), it is permissible to apply the net profit margin realized by the assessee from the entity as a whole in place of the net profit margin realized by the assessee from the international transaction entered into with the AE?"

2. Identical appeal concerning the same assessee filed by the revenue being Income Tax Appeal No.445 of 2017 came to be dismissed by the separate order passed today. Without recording separate reasons, this appeal is also dismissed.

3. Before conclusion we may record the appeal memo includes a question about correctness of the assessee's claim of deduction of provision made towards employees' stock option. However, learned counsel for the revenue stated that this question does not arise out of the impugned judgment of the Income Tax Appellate Tribunal. This question is therefore not considered in this appeal.

(S.J.KATHAWALLA, J.) **(AKIL KURESHI, J.)**

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