$~29.

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

\+ ITA 945/2019

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL TAXATION -3 ..... Appellant

Through: Mr. Ruchir Bhatia, Advocate.

versus

HONDA MOTORS CO. LTD. ..... Respondent

Through: Mr. Shashi Mathews, Mr. Abhishek Boob and Mr. Vipin Upadhyay, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **08.11.2019**

The present appeal is directed against the order dated 10.05.2019 passed by Income Tax Appellate Tribunal '(ITAT)' Delhi Bench "I-1": New Delhi in ITA No. 1744/Del/2017 for the assessment year 2007-08. The Tribunal allowed the said appeal preferred by the assessee along with other appeals. The Tribunal, while allowing the said appeal, has relied upon the decision dated 24.10.2017 of the Supreme Court in ***Assistant Director of the Income Tax -I, New Delhi Vs M/s. E-Funds IT Solution Inc.***, Civil Appeal No. 6082 of 2015 and other connection matters, as well as the decision of the Supreme Court in the case of the respondent assessee itself in Civil Appeal No. 2833 to 2840/2018, decided on 14.03.2018.

The Tribunal has noted that the Supreme Court has held that once arm's length principle has been satisfied, there can be no further profit attributable to the assessee, even if it has a permanent establishment in India. Therefore, the finding that the respondent assessee has a permanent establishment in India was of no consequence since the transaction was found to be at arm's length in the facts of the present case.

The submission of Mr. Bhatia is that the earlier decision of the Supreme Court in ***M/s E-Funds IT Solution Inc.*** (supra) is not attracted in the case of the respondent assessee, and that the case should be examined in the light of the decision of the Supreme Court in ***M/s DIT (International Taxation), Mumbai v. M/s Morgan Stanley & Co. INC***, (2007) 292 ITR 416 (SC).

However, considering the fact that the Supreme Court has already rejected the appeal preferred by the Revenue, as also the review in the case of the respondent assessee itself, it is not open for the department to press for the same here.

The revenue claims that it is moving an accurate writ petition. Be that as it may, since the issue stands concluded so far as the respondent assessee is concerned by this Court in ITA 562/2019 which, in turn, follows the aforesaid decisions of the Supreme Court, including in the case of the assessee, in our view, no question of law arises for our consideration in the present appeal. The same is, accordingly, rejected.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 08, 2019
kd