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

\+ ITA 196/2019

PR. COMMISSIONER OF INCOME TAX-04, DELHI ..... Appellant
Through: Mr.Sanjay Kumar, Std.Counsel

versus

GLOBE GROUND (INDIA) PVT. LTD. ..... Respondent
Through: Mr.Mayank Nagi & Mr.Tarun Singh, Advocates

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **27.02.2019**

1. Issue notice. Mr.Mayank Nagi, Advocate accepts notice.

2. The Revenue contends that the royalty fee paid – ₹1,77,81,000/-, which was disallowed by the TPO as a necessary payment on account that the AE had demanded the payment although for the past assessment years, the said royalty payment was not received by the AE, is questioned by the Revenue.

3. The Court is of the opinion that the question as claimed, does not arise. The TPO appears to have decided the feasibility of the royalty payment in such transactions and on his own held that such payments were unwarranted. The question of law sought to be urged is covered by the decision of this Court in *Commissioner of Income Tax-I vs. M/s Cushman & Wakefield (India) (P) Ltd.* (2014) 367 ITR 730. The Court had then held

that the TPO's jurisdiction is to conduct transfer pricing analysis, determining armed length price of the technical know-how, and not whether an underlying service was in fact availed of, which benefited the assessee.

4. The same logic and reasoning applies to the circumstances of this case. No question of law arises.

5. The appeal is dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 27, 2019
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