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

Date of Decision: 14.09.2021

+ ITA 839/2018

PR. COMMISSIONER OF INCOME TAX-6,
NEW DELHI Appellant
Through Mr.Puneet Rai, Sr. SC.

versus

FREESCALE SEMICONDUCTOR INDIA PVT. LTD. (NOW
KNOWN AS NXP INDIA PVT. LTD.) Respondent
Through Mr.S.S.Tomar, Mr.Vishal
Kalra, Advs.

+ ITA 840/2018

PR.COMMISSIONER OF INCOME TAX-6,
NEW DELHI Appellant
Through Mr.Puneet Rai, Sr.SC.

versus

FREESCALE SEMICONDUCTOR INDIA PVT. LTD. (NOW
KNOWN AS NXP INDIA PVT. LTD.) Respondent
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Kalra, Advs.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

The hearing has been conducted through of video conferencing.

1. ITA No. 839 of 2018 has been filed by the appellant in challenge to the Order dated 07.12.2017 passed by the Income Tax Appellate Tribunal, Delhi Bench 'I-1', New Delhi (hereinafter referred to as the 'ITAT'), in ITA No. 2589/Del/2015, primarily challenging the direction to exclude the Infosys Limited as a comparable for the respondent for the Assessment Year 2009-10.

2. ITA No. 840 of 2018 has been filed by the appellant challenging the Order dated 07.12.2017 passed by the ITAT, in ITA No. 2427/Del/2015, directing exclusion of Kals Information System Limited, Infosys Limited and Wipro Limited as a comparable for the respondent for the Assessment Year 2008-09.

3. For all the above exclusions, the ITAT has relied upon its Order dated 31.10.2014 passed in respondent's own assessment for the Assessment Year 2007-08.

4. The learned counsel for the respondent submits that the appeal, being ITA No. 613 of 2015, filed by the appellant, for the Assessment Year 2007-08, was dismissed by this Court vide its Order dated 19.08.2015. The learned counsel for the appellant could not deny the said position.

5. The relevant extract from the Order dated 19.08.2015 of this court is as under:

“4. The question that is urged by the Revenue is whether in the facts and circumstances of the case the ITAT has erred in directing to exclude 10 comparables

considered by the Transfer Pricing Officer (TPO) for computing the adjustment amount of the Arm's Length Price (ALP) and restoring four comparables like Accel Transmatic Ltd., E-zest solutions, Ishir Infotech Ltd. and Helios & Matheson Information Technologies Ltd to the file of AO for consideration?

5. *Learned counsel for the Appellant has taken us through the impugned orders of the CIT(A) and ITAT. Having perused the reasons given by the ITAT for excluding the 10 comparables, the Court finds that the said order suffers from no legal infirmity when viewed in the light of Rule 10B (4) of the Income Tax Rules, 1962 and the legal position explained by this Court in its decision in **Chriscapital Investment Advisors (India) Pvt. Ltd. v. D.C. of Income Tax (2015) 277 CTR (Del) 137**. No substantial question of law arises. The appeal is dismissed."*

6. In view of the above, we find no merit in the present appeals as no substantial question of law arises. The appeals are dismissed.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

NAVIN CHAWLA, J

MANMOHAN, J

SEPTEMBER 14, 2021
RN/P