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

+ ITA 370/2022

AKZONOBEL INDIA PRIVATE LIMITED Appellant

Through: Mr.Vishal Kalra with Mr.S.S.Tomar,
Advocates.

versus

THE ADDITIONAL COMMISSIONER OF INCOME TAX

..... Respondent

Through: Mr.Zoheb Hossain, Sr.Standing
Counsel for the Revenue with
Mr.Vipul Agrawal and Mr.Parth
Semwal, Advocates.

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Date of Decision: 27th September, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

C.M.No.42494/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

ITA No.370/2022

1. Present income tax appeal has been filed challenging the order dated 28th February, 2022 passed by the Income Tax Appellate Tribunal ('the ITAT') in ITA No. 6007/Del./2014 for the Assessment Year 2008-09.



2. Learned counsel for the Appellant states that the ITAT has erred in upholding the transfer pricing adjustment amounting to Rs.1,94,65,250/- in respect of the international transaction pertaining to receipt of business support services and the arm's length price of the said transaction at 'Nil'.
3. He states that the ITAT has erred in subjecting the transaction pertaining to receipt of administrative services to comparable uncontrolled price ('CUP') method without demonstrating any comparable instances and ignoring the arm's length analysis submitted by the Appellant.
4. He also states that similar administrative services have been provided in the subsequent assessment years and have been accepted by the ITAT.
5. Upon a perusal of the paper book, this Court finds that all the three authorities below have given concurrent findings of fact that the Appellant had failed to furnish evidence to demonstrate that administrative services were actually rendered by the AE and the assessee had received such services. In fact, the ITAT has noted in the impugned order *"....On a specific query made by the Bench to demonstrate the receipt of services from AE through cogent evidence, including, any communication with the AE, learned counsel for the assessee expressed his inability to furnish any evidence and repeated his submission to restore the matter back to the Assessing Officer for enabling the assessee to furnish evidence, if any."*
6. This Court is also of the view that every Assessment Year is a separate unit which is governed by its own peculiar facts. Further, the ITAT in the impugned order has clarified that its decision would not prejudice the assessee's claim in any other assessment year, as it has to be decided based on the evidences produced to establish the claim of receipt of services from AE.



7. Further , this Court in *Principal Commissioner of Income Tax-6 vs. Make My Trip India (P) Ltd., (2017) 87 taxmann.com 284 (Delhi)* has held that difference of opinion between the parties, as to the appropriateness of one or the other methods to calculate arm's length price, cannot *per se* be a ground for interference and the appropriateness of the method unless shown to be contrary to the Rules specially 10B and 10C are hardly issues that ought to be gone into under Section 260A of the Act.

8. Consequently, this Court is of the view that no substantial question of law arises for consideration in the present appeal and the same is accordingly dismissed.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

**SEPTEMBER 27, 2022
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