$~86 & 88

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

\+ ITA 363/2026, CM APPL. 30077/2026, CM APPL. 30078/2026

\+ ITA 366/2026, CM APPL. 30405/2026 & CM APPL. 30406/2026

PR. COMMISSIONER OF INCOME TAX-7, DELHI.....Appellant

Through: Mr. Puneet Rai, SSC and Mr. Ashvini Kumar and Mr. Rishabh Nangia, JSCs

versus

SONY INDIA PVT. LTD. .....Respondent

Through: Mr. Nageswar Rao, Adv.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% **06.05.2026**

CM APPL. 30079/2026 (Delay in re-filing) in ITA 363/2026
CM APPL. 30407/2026 (Delay in re-filing) in ITA 366/2026

1. For the reasons stated, 60 days delay in re-filing the appeals is condoned.

2. Both the applications are allowed.

ITA 363/2026, CM APPL. 30077/2026, CM APPL. 30078/2026 & ITA 366/2026, CM APPL. 30405/2026

3. Both the appeals *qua* Assessment Years (AYs) 2017-18 and 2018-19 have been filed seeking adjudication of the following proposed questions of law which are reproduced hereinfra:-

> *"A. Whether the Hon'ble Tribunal has erred in law and on facts in upholding the contention of the assessee that the Bright Line Test (BLT) is not in accordance with law without appreciating the facts that the BLT was not used as a method to determine the ALP but only as an economic/statistical tool to arrive at the cost of services rendered to foreign enterprise by Indian entity*

and when the TPO has the mandate to determine such cost as a primary step in ALP determination as provided under the Rules for A.Y 2015-16, 2017-18 and 2018-19?

B. Whether the Hon'ble Tribunal has erred in directing the deletion of the entire royalty adjustment without appreciating the evidence on record indicating that the assessee had not demonstrated tangible benefits or commercial rationale commensurate with the royalty payment made to its Associated Enterprise under the Rules for A.Y 2015- 16, 2017-18 and 2018-19?

C. Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in not appreciating that third party manufacturers are liable to pay royalty to the AE Sony Corp as these companies are the ultimate users of the intangibles in the form of licensed patents and know-how provided by the AE Sony Corp for manufacturing of licensed products under the Rules for A.Y 2015- 16, 2017- 18 and 2018-19?

D. Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in not appreciating that the assessee Sony India Pvt. Ltd. has not used the licensed patents and know-how for manufacturing of licensed products and accordingly it is not liable to pay royalty charge to the owner of the intangibles i.e. the AE Sony Corp under the Rules for A.Y 2015-16, 2017-18 and 2018-19?

E. Whether the Hon'ble ITAT has not erred in its decision to rely on the decision of the Hon'ble Delhi High Court in the case of Cushman and Wakefield (ITA 475/2012) whereas the issues involved in this case are different from that of the assessee's case as arm's length price of the international transaction related to payment of royalty has been determined by the TPO within the authority as prescribed under section 92C of the Income Tax Act, 1961 for A.Y 2015-16, 2017-18 and 2018-19?

F. Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in not appreciating the action of the TPO for calculating ALP nil for royalty payment made by the assessee to the AE Sony Corp for the licensed patents and know-how which are actually owned by third parties and not by the AE under the Rules for A.Y 2015-16, 2017-18 and 2018-19?"

4. Learned counsel for the respondent-assessee at the outset submitted that all the questions proposed by the appellant have already been decided by this Court against the Revenue in assessee's own cases being ITA No. 7/2023 decided on 13.12.2023 and ITA No. 551/2023 decided on 30.09.2024.

5. He pointed out that so far as question No. A in relation to the method of valuation of transfer pricing is concerned, the Assessing Officer (AO) had adopted a method called Bright Line Test (BLT), whereas this Court vide its judgment being ITA 7/2023 dated 13.12.2023 has held that since the BLT method is not provided under the Income Tax Act, 1961 or rules framed thereunder, such test being alien to the statutory provisions, cannot be adopted.

6. Adverting to the remaining questions (i.e question Nos. B to F) relating to royalty payment, learned counsel for the respondent submitted that the Tribunal's order deals with following two aspects:-

(i) Whether the transfer pricing adjustment is required to be made in respect of royalty payment?

(ii) And if yes, what should be the method of calculation and quantum of royalty for such adjustment?

7. Mr. Puneet Rai, learned Senior Standing Counsel for the Income Tax Department was not in a position to dispute the position that both the aspects have been decided in ITA No. 551/2023 vide judgment dated 30.09.2024 and 7/2023 decided on 13.12.2023. He could bring to our notice, any judgment of Hon'ble the Supreme Court in which the Apex Court have taken a view other than what has been taken by this Court in assessee's own cases (being ITA No. 7/2023 decided on 13.12.2023 and ITA No. 551/2023

decided on 30.09.2024).

8. The appeals thus, stand dismissed. Pending applications are disposed of.

DINESH MEHTA, J

TEJAS KARIA, J

MAY 6, 2026/*cd*