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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
37 to 41

+ **W.P.(C) 6296/2017**  
COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION)-  
2

..... Petitioner  
Through: Ms. Lakshmi Gurung and Mr. Rahul  
Chaudhary, Advocates

versus

LS CABLE & SYSTEMS LTD KOREA (FORMERLY LS CABLE  
LIMITED)

..... Respondent

Through: None

+ **W.P.(C) 6332/2017**  
COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION)-  
2

..... Petitioner  
Through: Ms. Lakshmi Gurung and Mr. Rahul  
Chaudhary, Advocates

versus

LS CABLE & SYSTEMS LTD KOREA (FORMERLY LS CABLE  
LIMITED)

..... Respondent

Through: None

+ **W.P.(C) 6333/2017**  
COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION)-  
2

..... Petitioner  
Through: Ms. Lakshmi Gurung and Mr. Rahul  
Chaudhary, Advocates

versus

LS CABLE & SYSTEMS LTD KOREA (FORMERLY, LS CABLE



LIMITED)

..... Respondent

Through: None

+ **W.P.(C) 6334/2017**

COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION)-2

..... Petitioner

Through: Ms. Lakshmi Gurung and Mr. Rahul Chaudhary, Advocates

versus

LS CABLE &amp; SYSTEMS LTD. KOREA (FORMERLY, LS CABLE LIMITED)

..... Respondent

Through: None

+ **W.P.(C) 6335/2017**

COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION)

2

..... Petitioner

Through: Ms. Lakshmi Gurung and Mr. Rahul Chaudhary, Advocates

versus

LS CABLE &amp; SYSTEMS LTD KOREA (FORMERLY, LS CABLE LIMITED)

..... Respondent

Through: None

**CORAM:****JUSTICE S. MURALIDHAR****JUSTICE PRATHIBA M. SINGH****ORDER**

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26.07.2017

**CM 26087/2017 (exemption) in W.P.(C) 6296/2017****CM 26226/2017 (exemption) in W.P.(C) 6332/2017****CM 26227/2017 (exemption) in W.P.(C) 6333/2017****CM 26228/2017 (exemption) in W.P.(C) 6334/2017****CM 26229/2017 (exemption) in W.P.(C) 6335/2017**

1. Allowed, subject to all just exceptions.



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**W.P.(C) 6296, 6332, 6333, 6334 and 6335 of 2017**

2. These writ petitions challenge the common order, dated 9<sup>th</sup> May, 2016, passed by the Authority for Advance Ruling (Income Tax) ('AAR') disposing of the applications filed by the Respondent in its favour by holding that the income from overseas supplies under the contract in question would not be income taxable in India. By the aforementioned impugned order, the AAR has followed its earlier order dated 26<sup>th</sup> July, 2011 passed in AAR No. 858-861.

3. The AAR has mentioned in the impugned order that the said earlier order of the AAR was confirmed by this Court by its order dated 12<sup>th</sup> January, 2016 passed in W.P.(C) No. 12188/2015. That order, in turn, has referred to the earlier order dated 24<sup>th</sup> December, 2010 passed by this Court in ITA No. 703/2009 (*DIT v. L.G. Cables Ltd.*) and order dated 30<sup>th</sup> September, 2011 passed in ITA No. 706/2011 (*DIT v. L.S. Cables Ltd.*).

4. Ms. Laxmi Gurung, learned counsel appearing for the Petitioner Revenue sought to distinguish the present cases from those decisions on the ground that those cases involved three separate contracts – one for off-shore supply, one for on-shore supply and the other for onshore service – whereas in the present case, the contract was a composite one which contemplates both off-shore and on-shore supply.

5. The Court finds that the question posed by the Assessee before the AAR was confined even in the present cases to off-source supplies. The question posed for an answer by the AAR reads as under:



“1. On the facts and circumstances of the case, whether the amounts received/ receivable by LSCSL from Indu Project Limited ('Indu') for Offshore supply of Equipments & Materials etc. under offshore supply contract no. Indu/UCP/P0/001 dated 12th October 2009 ('offshore supply contract') for design, manufacture, supply of 220, 132 kV XLPE insulated UG Cable and accessories against specification No. JB 24 JBIC 1-2 XLPE Cable/2008 [hereinafter referred to as 'Hyderabad project'] is liable to tax in India under the provisions of the Income-tax Act, 1961 ('Act') and/ or the Agreement for Avoidance of Double Taxation between India and Korea ('India Korea Tax Treaty')?”

6. The same question, viz., whether the amount received by the Assessee pursuant to an offshore supply contract should be brought to tax in India arose in the earlier cases as well. Since clearly the Assessee was seeking an answer only to the issue concerning its offshore supplies, the mere fact that the contract in the present cases is a composite one will not make it different from the earlier cases decided by the AAR.

7. Consequently, the Court finds no error having been committed by the AAR in following its earlier decisions which have been confirmed by this Court as noted hereinbefore.

8. The petitions are accordingly dismissed, but in the circumstances, with no orders as to costs.

A handwritten signature in black ink, appearing to be 'S. Muralidhar'.

S. MURALIDHAR, J

A handwritten signature in black ink, appearing to be 'Prathiba M. Singh'.

PRATHIBA M. SINGH, J

**JULY 26, 2017**

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