



§~37 and 46

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

+ **ITA 587/2019**

PR. COMMISSIONER OF INCOME TAX- 2, DELHI..... Appellant

Through: Mr. Zoheb Hossain, Senior Standing
Counsel for Revenue

versus

M/S BIRLASOFT (INDIA) LTD. Respondent

Through: Mr. Neeraj Jain, Mr. Aniket D.
Agrawal, Advocates

AND

+ **ITA 596/2019**

PR. COMMISSIONER OF INCOME TAX- 2, DELHI..... Appellant

Through: Mr. Zoheb Hossain, Senior Standing
Counsel for Revenue

versus

M/S BIRLASOFT (INDIA) LTD. Respondent

Through: Mr. Neeraj Jain, Mr. Aniket D.
Agrawal, Advocates

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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09.07.2019

CM APPL. 30360/2019 (delay in re-filing the appeal) in ITA 587/2019 & CM APPL. 30366/2019 (delay in re-filing the appeal) in ITA 596/2019

1. For the reasons explained in the applications, the delay in re-filing the appeals is condoned. The applications are allowed.



ITA 587/2019 and ITA 596/2019

2. The Revenue's present appeals Court are directed against the common order dated 9th August 2018 of the Income Tax Appellate Tribunal (ITAT) in ITA Nos. 1028 and 7180/Del/2017 for the Assessment Years (AYs) 2012-13 and 2013-14.

3. The question urged is whether the ITAT erred in giving directions to the effect that the international transactions should be benchmarked by making internal comparison on the net margin earned by the assessee from its associated enterprises with profit earned by it from the unrelated parties, without considering the detailed analysis and speaking order of both the TPO and the DRP.

4. The same question urged in the Revenue's appeal involving the same Assessee for AY 2009-10 was not entertained by this Court in the order dated 15th April 2015 in ITA No. 44/2015 (*Commissioner of Income Tax Delhi -2 v. Birla Soft India Ltd.*).

5. Accordingly, the present appeals are also dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JULY 09, 2019

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