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

+ ITA 419/2019

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL  
TAXATION -2 ..... AppellantThrough: Mr. Ruchir Bhatia and Ms. Mansie  
Jain, Advocates.

versus

MOL CORPORATION ..... Respondent

Through: Mr. Nageswar Rao and Ms. Deepika  
Agarwal, Advocates.

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Date of Decision: 19<sup>th</sup> May, 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):**

1. Present appeal has been filed by the revenue challenging the remand order passed by the Income Tax Appellate Tribunal ('ITAT'). The relevant portion of the impugned order is reproduced hereinbelow:

*"8. We, therefore, by considering the aforesaid referred to facts and by respectfully following the order dated 26.09.2016 ITA Nos. 6089 to 6091/Del/2012 and 1969/Del/2014 in assessee's own case set aside this issue back to the file of the AO to be adjudicated afresh in accordance with law as has been directed in the aforesaid referred to order dated 26.09.2016."*



2. Learned counsel for the appellant/revenue submits that the ITAT instead of remanding the matter to the Assessing Officer to decide the issue of royalty in accordance with the judgment of this Court in ***DIT versus Infrasoftware Ltd.*** should have decided the issue itself.

3. It is pertinent to mention that after passing of the impugned orders by the ITAT, the Supreme Court in ***Engineering Analysis Centre of Excellence Pvt. Ltd. vs. Commissioner of Income Tax & Anr., 2021 SCC OnLine SC 159*** has confirmed the view taken by this Court in ***DIT versus Infrasoftware Ltd.***

4. However, learned counsel for the appellant/revenue states that the matter on merits is not covered by the judgment of the Supreme Court in ***Engineering Analysis Centre of Excellence Pvt. Ltd.*** (supra). Needless to state learned counsel for the respondent/assessee states that matter in issue is squarely covered by the judgment of the Apex Court in ***Engineering Analysis Centre of Excellence Pvt. Ltd.*** (supra).

5. In any event, in pursuance to the impugned remand orders, the Assessing Officer and Dispute Resolution Panel (DRP) have decided the matter. In fact, appeal of the assessee in second round is pending before the ITAT. The ITAT in Assessment Year 2010-11 & 2011-12 in its order dated 13<sup>th</sup> April, 2022 (passed during the pendency of the present appeals) has not only followed the decision of the Supreme Court ***Engineering Analysis Centre of Excellence Pvt. Ltd.*** (supra) but has also followed the decisions of this Court dated 15<sup>th</sup> March, 2022 and 7<sup>th</sup> March, 2022 whereby the appeals filed by the Revenue against the respondent/assessee on similar questions of law were dismissed.



6. Consequently, keeping in view the subsequent orders dated 14<sup>th</sup> February, 2022 and 13<sup>th</sup> April, 2022 deciding the issue of royalty passed by the ITAT, this Court is of the view that the present appeal challenging the orders of remand and seeking a decision by the ITAT is infructuous. In fact, some of the cross-appeals filed by the respondent/assessee against the same impugned orders have today been dismissed as infructuous.

**MANMOHAN, J**

**MANMEET PRITAM SINGH ARORA, J**

**MAY 19, 2022**  
**AS**

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