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

+ ITA 145/2020

PR. COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION) -1 ..... Appellant

Through: Mr. Ruchir Bhatia, Sr. Standing Counsel for Revenue.

versus

ALCATEL LUCENT FRANCE (NOW KNOWN AS ALCATEL LUCENT INTL.) ..... Respondent

Through: None.

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+ ITA 149/2020

PR. COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION) -1 ..... Appellant

Through: Mr. Ruchir Bhatia, Sr. Standing Counsel for Revenue.

versus

ALCATEL LUCENT ENTERPRISES ..... Respondent

Through: None.

6

+ ITA 151/2020

PR. COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION) -1 ..... Appellant

Through: Mr. Ruchir Bhatia, Sr. Standing Counsel for Revenue.

versus



ALCATEL LUCENT BELL NV

..... Respondent

Through: None.

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Date of Decision: 29<sup>th</sup> July, 2021**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE NAVIN CHAWLA****J U D G M E N T****MANMOHAN, J: (Oral)**

1. The appeals have been heard by way of video conferencing.
2. Present appeals have been filed under Section 260A of the Income Tax Act, 1961 raising the following substantial questions of law:-

*“1 Whether on the facts and in the circumstances of the case, the Ld. Income Tax Appellate Tribunal is correct in law in holding that the income from supply of software embedded in the hardware equipment or otherwise to customers in India does not amount to royalty under Section 9(l)(vi) of the Income Tax Act and under Article 12 of the Double Taxation Avoidance Agreement (DTAA) between India and France?”*

*2 Whether on the facts and in the circumstances of the case, the Ld. Income Tax Appellate Tribunal is correct in law in holding that payments which are subject to withholding tax under section 195 of the Income Tax Act, 1961 are not liable for interest under section 234B of the Income Tax Act, 1961?”*

3. Admittedly, the first proposed question is covered against the Revenue by virtue of the Supreme Court judgement in ***Engineering Analysis Centre of Excellence Pvt. Ltd. V. Commissioner of Income Tax and Anr. [2021] 432 ITR 471 (SC)***.
4. Even the aforesaid second proposed question is covered against the Revenue by virtue of the judgment of this Court in ***DIT v. GE Packaged***



*Power Inc. [2015] 373 ITR 65 (Del).*

5. Consequently, no substantial question of law arises in the present batch of matters.
6. Accordingly, the present batch of matters is dismissed.
7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail

**MANMOHAN, J**

**NAVIN CHAWLA, J**

**JULY 29, 2021**  
**AS**



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