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

+ **ITA 220/2022 & CM No.32234/2022**

ALCATEL LUCENT INDIA LIMITED Appellant

Through: Mr Nageswar Rao, Adv.

versus

DEPUTY COMMISSIONER OF
INCOME TAX & ANR.

..... Respondents

Through: Mr Vipul Agarwal and Mr Parth
Semwal, Standing Counsels for Mr
Zoheb Hossain, Sr. Standing Counsel.

+ **ITA 221/2022 & CM No.32285/2022**

ALCATEL LUCENT INDIA LIMITED Appellant

Through: Mr Nageswar Rao, Adv.

versus

DEPUTY COMMISSIONER OF
INCOME TAX & ANR.

..... Respondents

Through: Mr Vipul Agarwal and Mr Parth
Semwal, Standing Counsels for Mr
Zoheb Hossain, Sr. Standing Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **01.02.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

CM No.32234/2022 in ITA 220/2022

CM No.32285/2022 in ITA 221/2022

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.



ITA 220/2022

ITA 221/2022

2. These appeals concern Assessment Year (AY) 2007-2008 and impugn a common order dated 16.08.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

3. Admit.

4. The following questions of law are framed for consideration of the court:

(i) Whether the Tribunal misdirected itself on facts and in law, in not excluding the comparables Avani Cincom Technologies Ltd. and Ishir Infotech Ltd. in determining the Arm’s Length Price concerning the international transactions undertaken by the appellant/assessee with an Associated Enterprise?

(ii) Whether the Tribunal misdirected itself both on facts and in law in not including the comparable Akshay Software Technologies Limited in determining the Arm’s Length Price concerning the international transaction undertaken by the appellant/assessee with an Associated Enterprise?

(iii) Whether the Tribunal misdirected itself on facts and in law in failing to adjudicate the contentions of the appellant/assessee with regard to the exclusion of the following comparable companies: Tata Elxsi Limited and Sasken Communication Technologies Limited?

5. We are also informed by learned counsel for the parties that Miscellaneous Applications (MAs) have been preferred against the aforementioned order of the Tribunal which are pending consideration.



6. Given the aforesaid circumstance, Mr Nageswar Rao, who appears on behalf of the appellant/assessee, says he will withdraw the MAs which are pending consideration before the Tribunal.

6.1 The statement of Mr Rao is taken on record.

7. Mr Rao will ensure that the entire record made available to the statutory authorities, is placed before the court.

7.1. A copy of the same will be given to Mr Vipul Agarwal, who appears on behalf of the respondents/revenue.

8. List the above-captioned appeals on 13.04.2023.

9. In the meanwhile, learned counsel for the parties will file their written submissions, not exceeding three pages each, at least five days before the next date of hearing.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

FEBRUARY 1, 2023

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[Click here to check corrigendum, if any](#)