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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 299/2022**
+ **ITA 300/2022**

THE COMMISSIONER OF INCOME TAX, INTERNATIONAL
TAXATION-1, NEW DELHI

..... Appellant

Through: Mr Puneet Rai, SSC with Ms Adeeba
Mujahid, Adv.

versus

BENTLEY NEVADA INC.

..... Respondent

Through: Mr Sachit Jolly, Mr Rohit Garg, Ms
Disha Jham & Mr Sohum Dua, Advs.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

ORDER

01.09.2022

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

1. These are appeals preferred by the revenue.
2. Mr Punit Rai, who appears on behalf of the appellant/revenue says that the issue which arises for consideration in the above-captioned matters is covered against the revenue by the judgement dated 02.03.2021, rendered by the Supreme Court in Civil Appeal Nos. 8733-34/2018, titled *Engineering Analysis Centre of Excellence Private Limited v. Commissioner of Income Tax and Anr.*, reported as **2022 (3) SCC 321**.
3. Having said that, Mr Rai informs us that a review petition has been filed against the said judgement, which is pending consideration in the Supreme Court.

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4. We may note that the issue which arises for consideration is: whether receipts earned from supply of software are taxable in India under Section 9(1)(vi) of the Income Tax Act, 1961, read with Article 12 of the India-USA Double Tax Avoidance Agreement (DTAA)

5. Accordingly, the appeals preferred by the revenue are closed.

6. Liberty is, however, given to the appellant/revenue to revive the appeals in case the decision rendered by the Supreme Court in the aforementioned review petition favours the revenue.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

SEPTEMBER 1, 2022/r

Click here to check corrigendum, if any

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