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

+ ITA 31/2025 & CM APPL. 7418/2025

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -1Appellant

Through: Mr. Ruchir Bhatia, SSC.

versus

ADOBE SYSTEMS SOFTWARE IRELAND LTDRespondent

Through: Mr. Vishal Kalra, Advocate.

% *Date of Decision: 7th February, 2025*

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J: (ORAL)

CM APPL. 7418/2025

1. Cause shown is sufficient. Accordingly, the application is allowed.
Delay of 288 days in refiling the appeal is condoned.

2. The application stands disposed of.

ITA 31/2025

3. The present appeal has been filed under Section 260A of the Income Tax Act, 1961 assailing the order dated 12.10.2023 passed by the Income Tax Appellate Tribunal (ITAT) in respect of the respondent/Assessee for the Assessment Year (AY) 2020-21.

4. At the outset, Mr. Ruchir Bhatia, learned senior standing counsel appearing for the revenue brings attention of this Court to para 2 of the



appeal wherein substantial questions of law have been framed by the appellant, which reads thus:-

“2.1 Whether on the facts and circumstances of the case, and in law, the Ld. ITAT erred in holding that assessee company does not have existence of dependent PE in India/fixed place PE in India?

2.2 Whether on the facts and circumstances of the case, and in law, the Ld. ITAT erred in holding that the case of the assessee company squarely covered by the Hon'ble Apex Court in DIT v. Morgan Stanley Co [2007] 292 ITR 416 (SC) and not the exception, stipulated in the said judgment and hence nothing further is attributable to the assessee's PE in India despite that fact that Adobe India is performing functions which are wider in scope than what is mentioned in the agreement between the two entities and the TP Study Report of Adobe India?

2.3 Whether on the facts and circumstances of the case, and in law, the Ld. ITAT erred in deleting the addition made on account of attribution of profit to its PE in India on the basis of lack of information, disregarding the fact that assessee has not discharged its primary onus to provide the information and date required for ascertaining the proportion of receipts of the PE which were not covered under the Transfer Pricing study report or not subjected to arm's length pricing?

2.4 Whether on the facts and circumstances of the case, and in law, the Ld. ITAT has erred in not following the directions of Supreme Court in case of DIT v. Morgan Stanley Co where onus has been placed on assessee to place the data on the basis of which it had to be determined whether all the risk taking functions of the PE have been remunerated at arm's length?

2.5 Whether on the facts and circumstances of the case, and in law, the Ld. ITAT has erred in not passing a speaking order on whether Adobe India constitutes a PE of Adobe Ireland.

2.6 Whether on the facts and circumstance of the case, and in law, the Ld. ITAT erred in not appreciating the findings of the Ld. CIT(A) that the facts of the case indicate a Double Irish Model of corporate structuring aimed at tax avoidance?”

5. Mr. Bhatia, learned senior standing counsel fairly states that the substantial questions of law raised in this appeal are no more *res integra* and



has been decided against the appellant/revenue by the judgements passed by a Co-ordinate Bench of this Court in *Commissioner of Income Tax – International Taxation-1 vs. Adobe Systems Software Ireland Ltd.; 2025 SCC OnLine Del 411* and batch matters. The parties in the aforesaid batch matters and the present appeals are the same, except that, in those appeals, the AYs were for the years from 2013 till 2017, whereas in the present appeal, the AY pertains to 2020-2021.

6. Predicated thereon, he candidly submits that no substantial question of law is made out in the present appeal.

7. In view of the aforesaid, this Court is of the considered opinion that the present appeal is unmerited and is disposed of alongwith pending applications.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 7, 2025/rl