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

+ **ITA 447/2023**

**THE COMMISSIONER OF INCOME TAX - INTERNATIONAL  
TAXATION -3** ..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel with Ms Deeksha Gupta,  
Adv.

versus

**SOFTWAREONE PTE LTD.** ..... Respondent

Through: Ms Ananya Kapoor, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**

% **14.08.2023**

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

1. This appeal concerns Assessment Year (AY) 2017-18.
2. The appellant/revenue seeks to assail the order dated 26.12.2022 passed by the Income Tax Appellate Tribunal [in short, "ITAT"].
3. The short issue which arose for consideration before the Tribunal was whether the sale of the software would result in the respondent/assessee earning royalty.
4. The Tribunal has concluded that since it was a sale of copyrighted material and not copyright itself, there is no question of royalty accruing to the respondent/assessee.

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5. To be noted, in this case, the appellant/revenue sought to add Rs.12,87,22,587/- to the income of the respondent/assessee.
6. Mr Ruchir Bhatia, senior standing counsel, who appears on behalf of the respondent/revenue, say that the issue raised in the present appeal is covered by the decision of the Supreme Court in *Engineering Analysis Centre of Excellence Pvt. Ltd. Vs CIT*, (2021) 125 Taxman.com 42(SC).
7. We may also note that the Tribunal has returned a finding of fact that the respondent/assessee is a distributor, and not the creditor, of the software.
8. According to us, no substantial question of law arises for consideration.
9. The appeal is, accordingly, closed.

**RAJIV SHAKDHER, J**

**NEENA BANSAL KRISHNA, J**

**AUGUST 14, 2023/pmc**

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

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