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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ ITA 551/2024 & CM APPL. 66096/2024, CM APPL. 66097/2024  
**COMMISSIONER OF INCOME TAX INTERNATIONAL**  
**TAXATION-1, NEW DELHI** .....Appellant

Through: Mr. Sunil Aggarwal, SSC, Mr  
Shivansh B Pandya, Mr Viplav  
Acharya, JSCs and Mr Utkarsh  
Tiwari, Advocate.

versus

**NCR GLOBAL SOLUTIONS LIMITED** .....Respondent

Through: Mr. Nageswar Rao, Mr. Parth and  
Ms. Anshika Agarwal, Advocates

**CORAM:**  
**HON'BLE MR. JUSTICE VIBHU BAKHRU**  
**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**ORDER**  
**13.11.2024**

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1. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 (hereafter *the Act*) impugning a judgment dated 06.12.2023 passed by the learned Income Tax Appellate Tribunal (hereafter *learned ITAT*) which in turn was passed in an appeal preferred by the assessee against an order dated 30.11.2022 passed by the Dispute Resolution Panel (hereafter *DRP*).

2. The principal controversy relates to the question whether the respondent (assessee) had a permanent establishment in India. The learned ITAT had relied on an earlier order passed in ITA No.1756 and 1776/Del/2022 for the assessment year (AY) 2018-19 and 2019-20.



Concededly, the Revenue had preferred an appeal against the orders passed by the learned ITAT in respect to the AY 2018-19 and 2019-20 which also formed the foundation of the impugned order. The said ITA No.410 of 2024 captioned *Commissioner of Income Tax, IT-2 New Delhi v. NCR Global Solutions Limited* was dismissed by this Court by an order dated 02.08.2024 on the ground that the appeal did not raise any substantial question of law.

3. The Revenue has projected the following question of law in the present case:

“Whether on the facts and circumstances of the case, the Hon’ble ITAT erred in holding M/s NCR Corporation India Pvt. Ltd. is not PE of the assessee without appreciating the facts that it is working mainly or wholly on behalf of the assessee and concludes contracts and secures order mainly or exclusively for the assessee?”

4. The finding of fact rendered by the learned ITAT establishes that the assessee does not have a permanent establishment in India in the form of its subsidiary company. The learned ITAT has also noted that the transactions between the assessee and the subsidiary company were the subject matter of Arm’s Length Price analysis.

5. Undisputedly, the question raised by the assessee are covered by the decisions of the Hon’ble Supreme Court in the case of *DIT v. Morgan Stanely & Co. : (2007) 292 ITR 416 (SC)* as well as the decision in the case of *Engineering Analysis Centre of Excellence (P.) Ltd. v. CCIT : [2021] 432 ITR 471 (SC)*. A similar issue was also been decided by this Court in its earlier decision in *Adobe System Incorporated v. DIT : (2016) 7 ITR-OL 364*.

6. In view of the above, no substantial question of law arises in the



present appeal and the same is disposed of.

7. The pending applications are also disposed of.

**VIBHU BAKHRU, J**

**SWARANA KANTA SHARMA, J**

**NOVEMBER 13, 2024**

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*Click here to check corrigendum, if any*