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

+ **ITA 62/2023 & CM APPL. 4812/2023**

COMMISSIONER OF INCOME TAX (INTERNATIONAL  
TAXATION)-2

..... Appellant

Through: Mr Sanjay Kumar, Sr. Standing  
Counsel with Ms Easha Kadian, Adv.

versus

KLM ROYAL DUTCH AIRLINES

..... Respondent

Through: None.

**CORAM:**

**HON'BLE MR JUSTICE RAJIV SHAKDHER**

**HON'BLE MS JUSTICE TARA VITASTA GANJU**

**ORDER**

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**01.02.2023**

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

**CM APPL. 4812/2023**

1. Allowed, subject to just exceptions.

**ITA 62/2023**

2. This appeal concerns Assessment Year (AY) 2014-15 and seeks to challenge the order dated 30.09.2022 passed by the Income Tax Appellate Tribunal [in short, 'Tribunal'].

3. The short issue which arises for consideration in this appeal is: whether profit earned by respondent/assessee on account of the technical services rendered to other airlines could be treated as profit earned from operation of an aircraft?

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4. This issue, according to Mr Sanjay Kumar, learned senior standing counsel, who appears on behalf of the appellant/revenue [insofar as this Court is concerned], is covered by the decision rendered in *Director of Income Tax v. KLM Royal Dutch Airlines* (2017) 392 ITR 218 (Del).

4.1. We are informed that the appellant/revenue has preferred an appeal against the said decision, which is pending consideration.

5. Therefore, having regard to the aforementioned decision of this Court, in our view, there is no substantial question of law that arises for our consideration.

6. Accordingly, the appeal is closed.

7. Needless to add, if the appellant/revenue were to succeed in the Special Leave Petition (SLP) which is pending adjudication, parties will abide by the decision rendered in the same.

8. The Registry will dispatch a copy of the order passed today to the respondent/assessee *via* all modes including email.

**RAJIV SHAKDHER, J**

**TARA VITASTA GANJU, J**

**FEBRUARY 1, 2023 / ha**

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