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

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Decision delivered on: 28.07.2023+ **ITA 823/2018**

THE PR. COMMISSIONER OF INCOME TAX -6 Appellant
Through: Mr Ruchir Bhatia, Sr. Standing
Counsel with Ms Deeksha Gupta,
Advocate.

versus

NOKIA SOLUTION & NETWORKS INDIA P. LTD. ... Respondent
Through: Mr Deepak Chopra and Mr Ankul
Goyal, Advs.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE GIRISH KATHPALIA****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):**

1. This appeal concerns Assessment Year (AY) 2007-08.
2. Via this appeal, the appellant/revenue seeks to assail the order dated 31.01.2018 passed by the Income Tax Appellate Tribunal [in short, "Tribunal"].
3. The questions of law, as proposed by the appellant/revenue, read as follows:

2.1 Whether on the facts and circumstances of the case ld. ITAT/CIT(A) erred in deleting of Rs.3,24,11,982/- made by Assessing officer on account of provision for liquidated damages claimed in the profit and loss account by the Assessee even when the provisions are unascertained liabilities, hence were not admissible under the provision of Income Tax Act,1961?



2.2 Whether on the facts and circumstances of the case ld. ITAT/CIT(A) erred in deleting of Rs.3,24,11,982/- made by Assessing officer on account of provision for liquidated damages claimed in the profit and loss account by the Assessee by not considering the fact that the assessee was following the mercantile systems of accounting and the law does not allow the claim of unascertained liabilities?

2.3 Whether on the facts and circumstances of the case ld. ITAT/CIT(A) is legally in dismissing the appeal of the Revenue on the basis of earlier order in the assessee's own case despite the fact that principle of res,judicata is not applicable to income tax proceedings as each assessment year is a separate proceeding year?

4. The issue which arises for consideration in the present appeal preferred by the appellant/revenue, also arose for consideration in ITA No. 761/2018, which was on our board today.
5. In ITA no.761/2018, we have passed an order today remanding the matter for reconsideration by the Tribunal.
6. The observations and directions contained therein will apply *mutatis mutandis* to this matter as well.
7. Accordingly, the impugned order dated 31.01.2018 is set aside.
 - 7.1. The matter is remanded to the Tribunal.
 - 7.2. Parties will appear before the Tribunal on 28.08.2023.
8. The appeal is disposed of, in the aforesaid terms.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

JULY 28, 2023/as