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

+ ITA 342/2022

PR. COMMISSIONER OF INCOME TAX-1 ..... Appellant

Through: Mr.Sanjay Kumar, Sr.Standing  
Counsel for the Revenue with  
Ms. Easha Kadian, Advocate.

versus

AVERY DENNISON (I) PVT. LTD. .... Respondent

Through: Mr.Vishal Kalra with Mr.S.S.Tomar,  
Advocates.

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Date of Decision: 20<sup>th</sup> September, 2022

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**J U D G M E N T**

**MANMOHAN, J (Oral):**

1. Present income tax appeal has been filed challenging the order dated 11<sup>th</sup> October, 2021 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA 4720/Del./2017 for the Assessment Year 2009-10.
2. Learned counsel for the Appellant states that the ITAT has erred in deleting the addition made by the Transfer Pricing Officer (TPO) and in holding that the payment made for intra group services was for commercial expediency. He further states that the ITAT has erred in holding that the TPO has re-characterized the infra group services transaction, without appreciating that the TPO has not disallowed the infra group services



merely on the issue of non-substantiation of commercial expediency by the assessee but on several other factors.

3. He also states that the ITAT has erred in not considering interest on outstanding receivables as an international transaction as per Section 92 (B) read with Section 92F(v) of the Income Tax Act, 1961 ('the Act') which requires to be benchmarked as per Rule 10B of the Income Tax Rules, 1962.
4. Admittedly, the issue pertaining to infra group services is covered by the judgement of this Court dated 28<sup>th</sup> July, 2016 in assessee's own case in ITA 386/2016 and other connected matters for the Assessment Years 2007-08 & 2008-09, wherein this Court has held as under:-

*“3. ... The contention of the Assessee was that agreement between the Assessee and its AE was a composite one and could not be split up for the purposes of holding that some services are at arm's length and some are not. The ITAT appears to have agreed with the above contention of the Assessee on viewing the agreement as a whole. It was not within the purview of the TPO to determine if some of the services resulted in any actual benefit to the Assessee or not.*

*4. Having heard learned counsel for the Revenue at length and having perused the orders of the TPO, CIT(A) and the ITAT, the Court is of the view that the view taken by the ITAT is plausible one and does not warrant any interference.”*

5. The Appellate Authorities have concluded that facts of present case are similar to the facts involved in Assessment Years 2007-08 & 2008-09. Consequently, the first issue raised by the appellant is no longer *res integra*.
6. Further, the Appellate Authorities below have accepted the contention of the assessee that the assessee was justified in not charging interest on the delayed payments by the AEs and in not levying any interest on delayed payments made by the non-AEs, as the debtor days given to the non-AEs



were more than the debtor days given to the AEs. The ITAT also recorded that at times 120 days are given to the non-AE entity for payment from billing date. Furthermore, the Authorities below accepted the contention of the assessee that during the Financial Year 2008-09, the assessee had net monthly balance payable to the AEs as opposed to monthly balance receivable from the AEs as alleged by the Assessing Officer.

7. Consequently, given the concurrent findings of facts by the Appellate Authorities below that the debtor days given to the AEs are less than the debtor days given to non-AEs, no substantial question of law arises for consideration in the present appeal and the same is accordingly dismissed.

**MANMOHAN, J**

**MANMEET PRITAM SINGH ARORA, J**

**SEPTEMBER 20, 2022**  
**KA**