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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Judgment Reserved on: 22.11.2023**Judgment Pronounced on: 13.12.2023*

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ITA 10/2023 & CM APPL. 931/2023**PR. COMMISSIONER OF INCOME TAX DELHI – 8 Appellant****Through: Mr Zoheb Hossain, Senior Standing
Counsel along with Mr Sanjeev
Menon, Standing Counsel.****versus****M/S SONY INDIA PVT. LTD.****..... Respondent****Through: Mr Nageswar Rao, Mr Parth and Ms
Maher Verma, Advs.****CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE GIRISH KATHPALIA****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J.:**

1. This appeal concerns Assessment Year (AY) 2008-09. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 16.01.2019 passed by the Income Tax Appellate Tribunal [hereafter referred to as “the Tribunal”].
2. Although a perusal of the appeal discloses that three (3) questions are proposed on behalf of the appellant/revenue, in substance, they veer around one (1) issue, which is, whether the reimbursement of advertising, marketing and promotion expenses (AMP), incurred by the respondent/assessee on behalf of its Associated Enterprise (AE), was at arm’s length. In other words, whether any upward adjustment was required to be carried out in the



amount received by the respondent/assessee from its AE.

2.1 The inter-related issue that arose for consideration was whether the Transfer Pricing Officer (TPO) ought to have used the bright line test (BLT) in computing the arm's length price (ALP) concerning AMP activities carried out by the respondent/assessee.

3. We have dealt with the above-mentioned *pari materia* issues while deciding ITA No. 7/2023, concerning AY 2007-08, which was treated as the lead matter, with the consent of the counsel for the parties.

4. Having regard to the judgment rendered in ITA No. 7/2023, the instant appeal is closed as the view taken in the said appeal will apply *mutatis mutandis* to the instant case as well.

5. Accordingly, the impugned order passed by the Tribunal is sustained.

6. The appeal is disposed of in the aforesaid terms.

7. The application for condonation of delay in re-filing is rendered infructuous.

7.1 The application is, accordingly, closed.

(RAJIV SHAKDHER)
JUDGE

(GIRISH KATHPALIA)
JUDGE

DECEMBER 13, 2023