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

\+ ITA 710/2017

HUAWEI TECHNOLOGIES CO., LTD. ..... Appellant

Through: Mr.Ajay Vohra, Sr.Adv with Ms.Kavita Jha, Mr.Udit Naresh and Mr.Himanshu Aggarwal, Advs.

versus

ASSISTANT DIRECTOR OF INCOME TAX CIRCLE 3(2), INTERNATIONAL TAXATION, NEW DELHI..... Respondent

Through: Mr.Puneet Rai, Sr.SC with Mr.Ashivini Kumar and Mr.Rishabh Nangia, Jr.SCs.

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\+ ITA 711/2017

HUAWEI TECHNOLOGIES CO., LTD. ..... Appellant

Through: Mr.Ajay Vohra, Sr.Adv with Ms.Kavita Jha, Mr.Udit Naresh and Mr.Himanshu Aggarwal, Advs.

versus

ASSISTANT DIRECTOR OF INCOME TAX CIRCLE 3(2), INTERNATIONAL TAXATION, NEW DELHI..... Respondent

Through: Mr.Puneet Rai, Sr.SC with Mr.Ashivini Kumar and Mr.Rishabh Nangia, Jr.SCs.

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\+ ITA 712/2017

HUAWEI TECHNOLOGIES CO., LTD. ..... Appellant

Through: Mr.Ajay Vohra, Sr.Adv with Ms.Kavita Jha, Mr.Udit Naresh and Mr.Himanshu Aggarwal, Advs.

versus

ASSISTANT DIRECTOR OF INCOME TAX CIRCLE 3(2), INTERNATIONAL TAXATION, NEW DELHI..... Respondent

Through: Mr.Puneet Rai, Sr.SC with Mr.Ashivini Kumar and Mr.Rishabh Nangia, Jr.SCs.

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\+ ITA 714/2017

HUAWEI TECHNOLOGIES CO., LTD. ..... Appellant

Through: Mr.Ajay Vohra, Sr.Adv with Ms.Kavita Jha, Mr.Udit Naresh and Mr.Himanshu Aggarwal, Advs.

versus

ASSISTANT DIRECTOR OF INCOME TAX CIRCLE 3(2), INTERNATIONAL TAXATION, NEW DELHI..... Respondent

Through: Mr.Puneet Rai, Sr.SC with Mr.Ashivini Kumar and Mr.Rishabh Nangia, Jr.SCs.

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\+ ITA 128/2023

HUAWEI TECHNOLOGIES CO LTD ..... Appellant

Through: Mr.Ajay Vohra, Sr.Adv with Ms.Kavita Jha, Mr.Udit Naresh and Mr.Himanshu Aggarwal, Advs.

versus

ADDITIONAL DIRECTOR OF INCOME TAX ..... Respondent

Through: Mr. Vipul Agrawal, Sr.SC with Mr.Gibran Naushad and Ms.Sakshi Shairwal, Jr.SCs.

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\+ ITA 130/2023

HUAWEI TECHNOLOGIES CO LTD ..... Appellant

Through: Mr.Ajay Vohra, Sr.Adv with Ms.Kavita Jha, Mr.Udit Naresh and Mr.Himanshu Aggarwal, Advs.

versus

ADDITIONAL DIRECTOR OF INCOME TAX

..... Respondent

Through: Mr. Vipul Agrawal, Sr.SC with Mr.Gibran Naushad and Ms.Sakshi Shairwal, Jr.SCs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

O R D E R

% **20.03.2024**

CM APPL. 17208/2024 (To raise additional questions of law) in ITA 710/2017
CM APPL. 17207/2024 (To raise additional questions of law) in ITA 711/2017
CM APPL. 17211/2024 (To raise additional questions of law) in ITA 712/2017
CM APPL. 17210/2024 (To raise additional questions of law) in ITA 714/2017

1. These applications have been filed seeking permission to raise additional questions of law.

2. Bearing in mind the disclosures made in the applications, the same are allowed.

ITA 710/2017
ITA 711/2017
ITA 712/2017
ITA 714/2017
ITA 128/2023
ITA 130/2023

1. Having heard Mr. Vohra, learned senior counsel appearing in support of the appeals as well as Mr. Rai, learned counsel who appears

for the respondent, we are of the considered opinion that the appeals would merit consideration on the following four questions of law:-

(a). Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal [**"ITAT"**] was correct in holding that the appellant constitutes a permanent establishment [**"PE"**] in India under provisions of the Double Taxation Avoidance Agreement [**"DTAA"**]?

(b). Whether on the facts and circumstances of the case, the ITAT was correct in holding that joint bidding for the contracts by the appellant with its Indian group company for their respective scope of work shall lead to constitution of appellant's PE in India under provisions of the DTAA? "

(c). Whether the order passed by the assessing officer for Assessment Year`s 2005-06 to 2008-09 under section 147 read with Sections 143(3) and 144(C)(13) of the Income Tax Act, 1961 ["**Act**"] is barred by limitation and therefore, is liable to be quashed?

(d). Without prejudice, even assuming that the appellant had a PE in India for the relevant year under consideration, the ITAT erred in holding those sales in respect of offshore supplies were concluded in India and income in respect thereof would be attributable to such PE?

2. Let these appeals be now posted on 13.05.2024 in the category of "End of Board".

3. We accord liberty to learned counsels for parties to place a Brief Synopsis of Submissions as well as a compilation of judgments

which are proposed to be relied upon on record at least 48 hours prior to the date fixed. Those submissions shall refer to the pdf page numbers of the digital record of the Court wherever so required.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MARCH 20, 2024/MJ