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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5260 OF 2008  
(Arising out of S.L.P.(C) No.14694/2007)

Director of Income Tax, New Delhi XVII

...Appellant(s)

Versus

Sofema SA, New Delhi

...Respondent(s)

ORDER

Leave granted.

In this case, the short question which arises for determination is whether Sofema SA, New Delhi (MNC) is a Permanent Establishment (PE) under the Double Taxation Avoidance Agreement (DTAA)?

At the outset, it may be stated that this Civil Appeal concerns Assessment Year 1997-98. Under the Income Tax Act, each assessment year is a unit by itself. In the present case, there a concurrent finding that Sofema SA, respondent herein, is not a PE under the DTAA. However, we find that this finding has been given on the basis that there is no evidence or justification forthcoming from the side of the Department to show that the respondent is a PE. On that account alone, we do not wish to interfere in this matter.

...2/-

CA...@ SLP(C) 14694/07 contd..

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For the afore-stated reasons, this Civil Appeal stands dismissed.

No order as to costs.

.....J.  
(S.H. KAPADIA)

.....J.  
(B. SUDERSHAN REDDY)

New Delhi,  
August 26, 2008.  
ITEM NO.2

COURT NO.6

SECTION IIIA

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).14694/2007

(From the judgement and order dated 18/12/2006 in ITA No.1764/2006  
of the HIGH COURT OF DELHI AT NEW DELHI)

DIRECTOR OF INCOME TAX, NEW DELHI XVII

Petitioner(s)

VERSUS

SOFEMA SA, NEW DELHI

Respondent(s)

(FOR FINAL DISPOSAL) (FOR ORDERS)

Date: 26/08/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. V. Shekhar, Sr.Adv.  
Ms. Shweta Garg, Adv.  
Mr. Naresh Kaushik, Adv.  
Ms. Shilpa Singh, Adv.  
Mr. Narayan Kaushik, Adv.  
Mr. B.V. Balaram Das,Adv.

For Respondent(s) Mr. Soli J. Sorabjee, Sr.Adv.  
Ms. Neelima Tripathi, Adv.  
Mr. Pritesh Kapur, Adv.  
Mr. Amey Nargolkar, Adv.  
Mr. Sujan Seth, Adv.  
Ms. Sheetal, Adv.  
Dr. Kailash Chand,Adv.

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

Civil Appeal stands dismissed with no order as to costs.

(N. ANNAPURNA)  
COURT MASTER

(MADHU SAXENA)  
COURT MASTER

(Signed order is placed on the file)