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

+ ITA 301/2022

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -2 Appellant

Through: Mr.Ruchir Bhatia, Senior Standing
Counsel for the Revenue along with
Mr.Shlok Chandra, Junior Standing
Counsel for Revenue.

versus

TRAVELPORT L.P. USA Respondent

Through: None

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Date of Decision: 02nd 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 9th November, 2020 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 6499/Del./2012 for the Assessment Year 2006-07.
2. Learned counsel for the Appellant-Revenue states that the ITAT has erred in holding that only 15% of the revenue is attributable to the assessee's PE in India by mechanically applying the ratio of the judgment of *DIT vs. Galileo International Inc., (2009) 180 Taxman 357 (Delhi)* without appreciating that the facts of the instant case are different.

3. Learned counsel for the Appellant-Revenue also contends that the ITAT has failed to note that the substantial activities relating to the business of the Assessee are carried out in India and accordingly entire booking fees/revenue generated from India would be taxable in India.

4. He lastly states that the scenario has drastically changed after the Assessment Year 2007-08 as the orders passed for the subsequent Assessment years have extensively dealt with the facts and law.

5. A perusal of the paper book reveals that the ITAT has held that since no guidelines are available as to how much income of the Assessee-Respondent be reasonably attributable to India, the same has to be determined on the basis of the facts and judicial precedents.

6. In the present case, the ITAT and CIT(A) have held that out of several activities, the activities of Calleo Distribution Technologies Private Limited in India were only in respect of generating request and receiving end-result of the process. In other words, the computers at the desk of the travel agent in India were merely connected to the extent that they could perform a booking function but were not capable of processing the data of all the airlines together at once place. The ITAT also held that the Assessee has not deployed any assets in India.

7. The ITAT in the present case not only relied upon the judgment of this Court in *Galileo International* (Supra) but also relied on the judgment of its Coordinate Bench in *Amadeus Global Travel I Distribution S.A. v. DCIT 113 TTJ 767*.

8. In the impugned order, the ITAT held that the present case was similar to that of *Galileo International* (Supra) and that the CIT(A) rightly attributed 15% of the revenue to the Respondent's PE in India. In fact, the

Appellant has not brought on record anything which differentiates the facts of this case with that of *Galileo International* (Supra).

9. Consequently, no substantial question of law arises for consideration in the present appeal and the same is dismissed.

10. This Court clarifies that in the present proceeding, it cannot comment on the orders passed in the subsequent assessment years as the said orders are not before this Court. However, it is directed that orders of the subsequent assessment years shall be decided on their own merits.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 2, 2022

j/KA