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

+ ITA 52/2012, ITA 53/2012, ITA 54/2012, ITA 58/2012, ITA 59/2012, ITA 60/2012 & ITA 61/2012

DIRECTOR OF INCOME TAX Appellant
Through: Ms.Rashmi Chopra, Advocate for
Mr.Sanjeev Sabharwal,
Sr.Standing Counsel.

versus

SHIN SATELLITE PUBLIC CO LTD Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE R.V.EASWAR

% **ORDER**
31.01.2012

C.M.No.1300/2012 in ITA 52/2012,
C.M.No.1301/2012 in ITA 54/2012,
C.M.No.1305/2012 in ITA 58/2012,
C.M.No.1306/2012 in ITA 59/2012,
C.M.No.1307/2012 in ITA 60/2012,
C.M.No.1308/2012 in ITA 61/2012

Exemption allowed subject to all just exception.

Applications stand disposed of.

ITA 52/2012, ITA 53/2012, ITA 54/2012, ITA 58/2012, ITA 59/2012,
ITA 60/2012 & ITA 61/2012

1. The present appeal u/s 260A of the Income Tax Act, 1961



arises out of the ITA Nos.2598, 2599,2560 &2601/Del/2004 which relate to assessment years 1998-99, 1999-2000, 2000-01 & 2001-02 and ITA Nos. 496/Del/2006 which relates to the assessment year 2002-03 and ITA No.s 2467 & 2468/Del/2008 which relate to the assessment year 2003-04 & 2004-05 in the case of Shin Satellite Public Co. Ltd.

2. The respondent/assessee is a resident of Thailand and a licensee of satellites owned by the Government of Thailand. TV channels/broadcasters have entered into agreements with the respondent/assessee for using transponders located in the satellites for broadcasting of their programmes. The respondent/assessee had received charges from the TV channels, who had used to transponders in the satellites.

3. The Assessing Officer referred to the decision in *Asia Satellite Telecommunication Co. Ltd. Vs. DCIT (2403) 85 II. U 478 (Del)* and held that the income earned by the respondent/assessee was royalty as defined in Explanation 2 Section 9 (1) (vi) of the Act. The satellites in question were receiving signals and after amplification, the signals were transmitted to India and another countries. The satellites had footprints in India.



4. The decision of the Tribunal in the case of *Asia Sat Telecommunication Co. Ltd.(supra)* has been set aside and reversed by the Delhi High Court vide decision dated 31.01.2011 in ITA Nos. 131 and 134/2003. It has been held that the payment received by the assessee cannot be taxed and treated as royalty under explanation to Section 9(1)(vi) of the Act.

5. It is not disputed before us and it was not disputed before the Tribunal that the facts of the present case are identical to the factual position in *Asia Satellite Telecommunication Co. Ltd.(supra)*.

6. In view of the aforesaid decision, the present appeals are dismissed, as we hold that no substantial question of law arises for consideration as the issue has been decided against the Revenue

7. No costs.


SANJIV KHANNA, J


R.V.EASWAR, J

JANUARY 31, 2012

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