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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 121/2025**
THE COMMISSIONER OF INCOME
TAX - INTERNATIONAL TAXATION -2

.....Appellant

Through: Mr Ruchir Bhatia, SSC, Mr Anant
Mann, JSC Ms Aditi Sabharwal and
Mr Abhishek Anand, Advocates.

versus

HCL TECHNOLOGIES LTD.

.....Respondent

Through: Mr Aditya Vohra and Mr Shashvat
Dhamija, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **25.04.2025**

CM APPL. 24475/2025(delay condonation in refiling)

1. For the reasons stated in the application, the delay of 49 days in re-filing the above captioned appeal stands condoned.
2. The application stands disposed of.

CM APPL. 24473/2025(delay condonation in filing)

3. For the reasons stated in the application, the delay of 28 days in filing the above captioned appeal stands condoned.
4. The application stands disposed of.

CM APPL. 24474/2025(Exemption)

5. Exemption is allowed, subject to all just exceptions.



6. The application stands disposed of.

ITA 121/2025

7. Issue notice. The learned counsel for the Assessee appearing on advance notice accepts notice.

8. The Revenue has filed the above captioned appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning the common order dated 16.08.2024 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA Nos. 1372-1377/Del/2024 respectively in respect of the Assessment Years [**AYs**] 2013-14 to 2018-19.

9. The above captioned appeal relates to the Revenue's challenge in respect of ITA No.1374/Del/2024 in respect of AY 2015-16.

10. It is pointed out that the learned ITAT had dismissed the appeal of the Revenue following its earlier decision dated 20.12.2023 in respect of the AY 2012-13 in ITA No.537/Del/2021. The ITA No.552/2024 captioned *Pr Commissioner of Income Tax International Taxation -2, New Delhi v. HCL Singapore Pte Limited* preferred by the Revenue against the aforesaid decision was admitted by this court vide order dated 13.11.2024 on the following questions of law: -

“1. Whether on the facts and circumstances of the case and in law, the Hon'ble ITAT has erred by not appreciating that the income of the Respondent-assessee is in the nature of Fee for Technical Services/Fee chargeable to tax under Section 9(1)(vii) on the Income Tax Act, 1961 for Included Services (FTS/FIS) rendered by it to HCLT for the business of HCLT carried on by HCLT in India for a client, which in this case, is located outside India?

2. Whether on the facts and circumstances of the



case and in law, the Hon'ble ITAT has erred in holding that both HCLT and the Respondent-assessee are jointly rendering services and therefore, it is a case of revenue sharing between HCLT and the Respondent-assessee qua the foreign customers of HCLT?

3. Whether on the facts and circumstances of the case and in law, the impugned judgment is perverse to the extent that additional evidence filed on behalf of the Appellant has neither been admitted nor rejected?"

11. It is contended that although the above said questions were admitted in the case of HCL Singapore Pte Limited, which is the recipient of the payments made by the assessee [HCL Technologies Ltd], the issues involved are similar.

12. In view of the above, the present appeal is admitted on the following questions of law: -

"I. Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in holding that the income paid to foreign associated enterprises/group companies of the assessed company are not chargeable to tax in India and the assessee was not liable to deduct tax at source on such payments?

II. Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in holding the amount paid by the assessee to the foreign AEs for the services utilized for business of onsite services carried on by the assessee outside India would not be taxable in India and erred in holding that the case of the assessee is covered under exception under section 9(1)(vii)(b) of the I.T. Act, and



further, the Ld. ITAT also erred in not considering that the AO rightly made addition under section 9(1)(vii) of the Act?

III. Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in deleting the addition under section 201(1) and consequent levy of interest under section 201(1A) of the I.T. Act?"

13. List along with ITA No.552/2024 for hearing on 16.07.2025.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 25, 2025

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Click here to check corrigendum, if any