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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 753/2025**
THE COMMISSIONER OF INCOME TAX
(INTERNATIONAL TAX)-1 NEW DELHI

.....Appellant

Through: Mr. Puneet Rai, SSC, Mr. Ashvini Kr., Mr. Rishabh Nangia, JSCs and Mr Nikhil Jain, Advocate.

versus

ERNST AND YOUNG U.S. LLP

.....Respondent

Through: Mr. S. Ganesh, Senior Advocate with Ms. Ananya Kapoor, Advocate.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

% **17.12.2025**

CM APPL. 79531/2025(Exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. We have heard the learned counsel for the parties. Both the parties submit that the issues that arise for consideration in this appeal are identical to the issues which arise for consideration in ITA No.424/2025, which has been reserved for judgment. We, accordingly admit the appeal on the following substantial questions of law:-



(A) Whether on the facts and in the circumstances of the case and in law, the Hon'ble ITAT is erred in holding that sum of Rs.24,05,12,955/- as cost to cost reimbursement on account of secondment of employees should not be treated as FTS as per the provisions of section 9(1)(vii) of the Income Tax Act, 1961 as well as under Article 12 of the India-USA Double Taxation Avoidance Agreement (DTAA)?

(B) Whether in the facts of this case, the amount of Rs.3,72,22,932/- received by the assessee shall fall within the provisions of the Article 12(4) (b) or 12(5)(e) read Article 15 of the India-USA DTAA?

4. Heard the learned counsel for parties. Reserve for judgment.
5. The learned counsel for parties shall file their written submissions in this appeal within a period of two days from today.

V. KAMESWAR RAO, J

VINOD KUMAR, J

DECEMBER 17, 2025

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