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

+ ITA 760/2025

THE COMMISSIONER OF INCOME TAX (INTERNATIONAL
TAX)-1 NEW DELHIAppellant

Through: Mr. Puneet Rai, SSC, Mr. Ashvini
Kumar, Mr. Rishabh Nangia and Mr.
Gibran, JSCs.

versus

ERNST AND YOUNG U.S. LLPRespondent

Through: Mr. S. Ganesh, Sr. Adv. with Ms.
Ananya Kapoor, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER

% **18.12.2025**

CM APPL. 80138/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

ITA 760/2025

3. This appeal lays a challenge to an order dated 31.07.2025 passed by learned Income Tax Appellate Tribunal ("ITAT"). In the earlier appeals filed by the respondent the ITAT has allowed the appeals in favour of the respondent/assessee.
4. It is agreed by the counsel for the parties that on identical questions/issues, four appeals have been reserved for orders. If that be so, we admit this appeal as well.
5. The following substantial questions of law are framed for



consideration in this appeal:

- (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.13,94,26,424/- as cost to cost reimbursement on account of secondment of employees should not be treated as FTS as per the provisions of section 9(l)(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.97,78,94,279/- 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?

6. Liberty is granted to the counsel for the parties to file their written submissions in this appeal within a period of two days from today.

7. Additionally, liberty is granted to the counsel to the parties to file consolidated written submissions in ITA Nos. 715/2025, 753/2025 and 760/2025 by 24.12.2025.

8. Reserved for judgment.

V. KAMESWAR RAO, J

VINOD KUMAR, J

DECEMBER 18, 2025/sr