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

+ ITA 92/2025

**TUNGSTEN AUTOMATION ENGLAND LIMITED
(FORMERLY KNOWN AS TUNGSTEN
NETWORK LIMITED)**

.....Appellant

Through: Mr Deepak Chopra and Ms Priya
Tandon, Advocates.

versus

**DEPUTY COMMISSIONER OF INCOME TAX,
INTERNATIONAL TAXATION, CIRCLE 3(1)(1)
NEW DELHI**

.....Respondent

Through: Mr Sunil Agarwal, senior standing
counsel with Mr Shivansh B. Pandya,
Mr Viplav Acharya, Ms Priya Sarkar
and Mr Utkarsh Tiwari, Advocates.

CORAM:

**HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA**

ORDER

17.04.2025

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CM No. 22268/2025

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

ITA 92/2025 and CM No. 22267/2025

3. Issue notice.
4. Mr Agarwal, the learned counsel appearing for the respondent accepts notice. He submits that the present appeal is not maintainable as the Assessee – who is a tax resident in United Kingdom – is a non-filer. He submits that a person, who has not filed its return under Section 139 or in response to a notice issued under Section 148 of the Income Tax Act, 1961



[the Act] is barred from maintaining an appeal.

5. We find that the aforesaid contention is bereft of any merit. The provisions of Section 260A of the Act is unambiguous and an appeal will lie against every order passed by the Tribunal provided that the court is satisfied that it involves the substantial question of law.

6. In the present case, the Assessee has projected several questions of law. In our view, the following questions of law arise for consideration of this Court:

“A. Whether the Appellant was taxable in respect of receipts of INR 3,31,98,980/- under the provisions of the Act or the India - UK DTAA?

B. Whether the Tribunal erred in law in re-characterising business receipts by the Appellant as FTS under Explanation 2 to section 9(1)(vii) of the Act and Article 13(4)(c) of the India – UK DTAA?”

7. The appeal is admitted on the aforesaid questions.

8. List for hearing on 13.05.2025.

9. The parties are at liberty to file a short note of their submissions including authorities relied upon by them before the next date of hearing.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 17, 2025

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[Click here to check corrigendum, if any](#)