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

% *Decision delivered on: 04.05.2023*

+ **ITA 258/2023 & CM Nos.22691-92/2023**

THE COMMISSIONER OF INCOME TAX –  
INTERNATIONAL TAXATION -1

..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel.

versus

AMADEUS IT GROUP SA

..... Respondent

Through: Ms Kavita Jha and Mr Udit Naresh,  
Advs.

+ **ITA 259/2023 & CM Nos.22693-94/2023**

THE COMMISSIONER OF INCOME TAX –  
INTERNATIONAL TAXATION -1

..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel.

versus

AMADEUS IT GROUP SA

..... Respondent

Through: Ms Kavita Jha and Mr Udit Naresh,  
Advs.

+ **ITA 260/2023 & CM Nos.22695-96/2023**

THE COMMISSIONER OF INCOME TAX –  
INTERNATIONAL TAXATION -1

..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel.

versus

AMADEUS IT GROUP SA

..... Respondent

Through: Ms Kavita Jha and Mr Udit Naresh,  
Advs.



+ **ITA 261/2023 & CM APPL. 22697/2023**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL  
TAXATION -1 ..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel.

versus

AMADEUS IT GROUP SA ..... Respondent

Through: Ms Kavita Jha and Mr Udit Naresh,  
Advs.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

[Physical Hearing/Hybrid Hearing (as per request)]

**RAJIV SHAKDHER, J. (ORAL):**

**CM No.22691/2023 in ITA 258/2023**

**CM No.22693/2023 in ITA 259/2023**

**CM No.22695/2023 in ITA 260/2023**

1. Allowed, subject to just exceptions.

**CM No.22692/2023 in ITA 258/2023**

**CM No.22694/2023 in ITA 259/2023**

**CM No.22696/2023 in ITA 260/2023**

**CM No.22697/2023 in ITA 261/2023 [Applications filed on behalf of the  
appellant seeking condonation of delay of 300 days in re-filing the  
appeals]**

2. These are the applications moved on behalf of the appellant/revenue  
seeking condonation of delay in re-filing the appeals.

2.1 According to the appellant/revenue, there is a delay of 300 days.

3. Ms Kavita Jha, who appears on behalf of the respondent/assessee,  
says that she does not oppose the prayer made in the applications.

4. Accordingly, the delay is condoned.

5. The applications are disposed of.



**ITA 258/2023**

**ITA 259/2023**

**ITA 260/2023**

**ITA 261/2023**

6. The above-captioned appeals preferred by the appellant/revenue concern Assessment Year (AY) 2007-08 [ITA No.261/2023]; AY 2008-09 [ITA No.260/2023]; AY 2010-11 [ITA No.259/2023] and AY 2011-12 [ITA No.258/2023].

6.1 These appeals have been disposed of *via* common order dated 26.10.2020 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

7. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of the appellant/revenue, says that the following questions have been, broadly, proposed in support of the above-captioned appeals:

(a) Whether in the facts and in circumstances of the case, the Tribunal erred in law in adopting a percentage figure pegged at 15% for determination of profit attributable to the PE of the appellant/assessee in India?

(b) Whether in the facts and in circumstances of the case, the Tribunal erred in law in holding that booking fee received by the appellant/assessee is taxable as business income, and not as royalty?

(c) Whether in the facts and in circumstances of the case, the Tribunal is correct in law in holding that payments, which are subject to withholding tax under Section 195 of the Income Tax. Act, 1961 [in short, the “Act”] are not liable for interest under Section 234B of the Act?

8. Mr Bhatia, however, fairly says that all three questions are covered by



the following decisions:

8.1 Insofar as the proposed question (a) is concerned, it is covered by the decision of the Supreme Court rendered in a bunch of appeals, being Civil Appeal Nos. 6511-6518/2010, titled *Director of Income Tax, New Delhi v. Travelpport Inc.*, dated 19.04.2023. Accordingly, the said question does not arise for our consideration, as it stands covered by the aforementioned decision of the Supreme Court.

8.2 Insofar as the proposed question (b) is concerned, once again, Mr Bhatia confirms that the said question raised by the appellant/revenue is covered by a decision rendered by a coordinate bench on 08.02.2016, in ITA No.473/2012, titled *Director Of Income Tax vs New Skies Satellite Bv & Ors.* Accordingly, this question also does not arise for our consideration, as it also stands covered by the aforesaid decision of the court.

8.3 Lastly, insofar as proposed question (c) is concerned, we are informed by Mr Bhatia that this question stands covered by a decision of the Supreme Court rendered in *Director Of Income Tax, New Delhi v. Mitsubishi Corporation*, (2021) 130 Taxman.com 276 SC.

9. Given this position, we are of the view that none of the questions of law, as proposed, arise for our consideration.

10. The appeals are, accordingly, closed.

11. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J**

**GIRISH KATHPALIA, J**

**MAY 4, 2023/aj**