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

% *Date of Decision: 06.10.2025*

+ **ITA 491/2025**

THE COMMISSIONER OF INCOME TAX (INTERNATIONAL
TAXATION)-1, NEW DELHI

.....Appellant

Through: Mr. Puneet Rai, Sr. Standing Counsel
with Mr. Ashvini Kumar, Mr.
Rishabh Nangia and Mr. Gibran,
Advs.

versus

M/S EXPEDITORS INTERNATIONAL OF WASHINGTON INC.

.....Respondent

Through: Mr. Rohan Khare and Mr. Priyam
Bhatnagar, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 62662/2025(Exemption)

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

CM APPL. 62663/2025 (Condonation of delay of 420 days in re-filing)

3. For the reasons stated in the application, the delay of 420 days in re-filing the appeal is condoned.
4. The application is disposed of.

**ITA 491/2025**

5. The challenge in this appeal under Section 260A of the Income Tax Act, 1961 is to an order dated 09.02.2024 passed by the learned Income Tax Appellate Tribunal ('ITAT') in ITA No. 2855/Del/2023 pertaining to the Assessment Year ('AY') 2021-22.

6. We find on findings from paragraph 6 onwards, the learned ITAT has allowed the appeal in favour of the assessee by stating as under:-

"6. We have heard the Ld. Representative of the parties and perused the material on record. The Revenue has not disputed the fact that the Coordinate Bench of the Tribunal for the preceding AY(s) have decided the

issues raised in AY 2021-22 in favour of the assessee. We have gone through the orders of the Co-ordinate Bench for AY 2010-11 (at page 286-316 of the Paper Book Volume II); for AY 2011-12 (at page 317-323 of the Paper Book Volume II); for AY 2012-13 to 2015-16 and 2017-18 (at page 324 to 345 of the Paper Book Volume II); for AY 2018-19 (at page 346-354 of the Paper Book Volume II) and for AY 2020-21 (at page 355 to 361 of the Paper Book Volume II). We note that the Co-ordinate Bench of the Tribunal in ITA No. 355/Del/2023 pertaining to AY 2020-21 has observed that all the issues under consideration in the present appeal have been consistently decided in favour of the assessee in assessee's own case in AY(s) 2010-11 to 2015-16, 2017-18 and 2018-19.

6.1 With respect to ground No. 2 relating to addition of Rs.1,49,85,14,454/- made by the Ld. AO on account of sale of logistic services treating the same as FTS under the Act as well as India-USA DTAA, the Coordinate Bench of the Tribunal in its decision dated 02.05.2023 in ITA No. 355/Del/2023 for AY 2020-21 in turn relying on its decision dated 31.10.2022 in ITA No.



1464/Del/2022 for AY 2018-19 observed and held as under:-

“7. On perusal of material placed before us, we find, this is a recurring issue between the assessee and the revenue starting from assessment year 2010-11. While deciding the issue in assessment year 2010-11, the Tribunal, in ITA No.1740/Del/2015 dated 30.09.2020 has held that the amount received by the assessee from freight/logistic support services cannot be treated as FTS/FIS either under the Act or under treaty provisions. Accordingly, the addition was deleted. Identical view was expressed by the Tribunal while deciding the appeals for subsequent assessment years, as noted above. In fact, though, the departmental authorities were conscious of the fact that the Tribunal has decided the issue in favour of the assessee in earlier assessment years, however, for the purpose of keeping the issue alive, a contrary decision has been taken. There being no change either in the factual or legal position relating to the disputed issue in the impugned assessment year, respectfully following the consistent view of the Tribunal in assessee’s own case in the preceding assessment years, as mentioned above, we delete the addition made by the assessing officer. This ground is allowed.”

6.2 With respect to ground No. 3 relating to the addition of Rs. 7,68,26,193/- made by the Ld. AO representing reimbursement of global account management charges received by the assessee treating the same as FTS under the Act as well as India-USA DTAA, the Coordinate Bench of the Tribunal in its decision dated 02.05.2023 in ITA No. 355/Del/2023 for AY 2020-21 in turn relying on its decision dated



31.10.2022 in ITA No. 1464/Del/2022 for AY 2018-19 observed and held as under:-

“10. Having considered rival submissions, we find that this is a recurring issue between the parties continuing right from the assessment year 2010-11. On going through the relevant orders of the Tribunal in assessment years 2010-11 to 2015-16 and 2017-18, it is observed that the issue has been consistently decided in favour of the assessee in all these years, while holding that the amount received towards reimbursement of global account management charges is not in the nature of FTS/FIS. Facts being identical, respectfully following the decision of the co-ordinate benches, we delete the addition made by the assessing officer. Ground raised is allowed. “

6.3 With regard to ground No. 4 relating to the addition of Rs. 1,03,04,852/- made by the Ld. AO representing reimbursement of lease line charges received by the assessee treating the same as royalty under the Act as well as India-USA DTAA, the Coordinate Bench of the Tribunal in its decision dated 02.05.2023 in ITA No. 355/Del/2023 for AY 2020-21 in turn relying on its decision dated 31.10.2022 in ITA No. 1464/Del/2022 for AY 2018-19 observed and held under:-

“13. Having considered rival submissions, it is observed that while deciding identical issue in assessee’s own case in assessment years 2012-13 to 2015-16, the Tribunal in ITA No.1904/Del/2017 and Ors. Dated 05.01.2022 has held that lease line charges are not in the nature of royalty. The same view was reiterated by the Tribunal while deciding the issue in assessment year 2017-18. It is further relevant to observe, while



considering the allowability of payment made towards lease line charges at the hands of assessee's payer, the assessing officer had held that the payment made is in the nature of royalty, hence, the assessee was required to deduct tax at source. Since, the assessee has not done so, the assessing officer made disallowance under section 40(a)(i) of the Act. However, while deciding the issue in case of the payer, the Hon'ble High Court held that the payment made, being not in the nature of royalty, no disallowance under section 40(a)(i) of the Act can be made. Thus, in view of the decision of the Tribunal in assessee's own case and the decision of the Hon'ble High Court in case of the payer, the addition made cannot be sustained. Accordingly, we delete it. This ground is allowed."

7. It is, therefore, apparent that all the issues challenged by the assessee in ground Nos. 2, 3 and 4 relating to receipts on account of logistic support services, reimbursement of global account management charges and lease line charges respectively have been consistently decided in favour of the assessee in preceding AYs, the latest being the decision (supra) of the Coordinate Bench of the Tribunal in ITA No. 355/Del/2023 for AY 2020-21 wherein the Tribunal in turn relied upon the favourable decisions of the Coordinate Bench in preceding AYs prior to AY 2018-19. The Revenue has not brought to our notice any change in to facts and circumstances in the year under consideration. The Revenue has also not brought to our notice any other binding precedent on the issues under consideration. We, therefore, respectfully following the decision (supra) of the Co-ordinate Bench of the Tribunal in assessee's own case, the facts being identical as



admitted by both the parties, decide ground No. 2, 3 and 4 in favour of the assessee. Accordingly ground No. 2, 3 and 4 are allowed.

8. Ground No. 1 is general in nature.

9. Ground No. 5 and 6 relating to levy of interest under section 234A and 234B of the Act are consequential in nature.

10. Ground No. 7 relating to initiation of penalty proceedings under section 270A of the Act being premature, do not require adjudication.

11. In the result, the appeal of the assessee is allowed.”

7. Mr. Puneet Rai, learned Senior Standing Counsel fairly states that the references made by the ITAT in the above paragraphs to hold that the grounds which have been raised by the assessee in its appeal before the ITAT are covered by the judgments of the ITAT itself for different AYs cannot be contested.

8. We have been informed that the judgments of the ITAT of those AYs became the subject matter of nine appeals before this Court, which were decided vide common judgment dated 13.02.2025 by this Court, the lead one being ITA 202/2022 titled ***Commissioner of Income Tax International Tax-I New Delhi v. M/s Expeditors International of Washington Inc*** whereby this Court has not interfered with the orders of the ITAT.

9. If that be so, no substantial question of law arises in this appeal. The appeal is dismissed.

V. KAMESWAR RAO, J

VINOD KUMAR, J

OCTOBER 06, 2025/sr