

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "C", BANGALORE**

Before Shri Chandra Poojari, AM & Shri George George K, JM

IT(IT)A No.2531/Bang/2019: Asst.Year 2016-2017

M/s.Quest Software International Limited, 6 th Floor, South Bank House, Barrow Street, Dublin Foreign Ireland. PAN : AAACQ2102L.	v.	The Dy.Commissioner of Income-tax (International Taxation) Circle 2(1) Bangalore.
(Appellant)		(Respondent)

Appellant by : Miss.Mansa Ananthan, Advocate

Respondent by : Sri.Pradeep Kumar, CIT-DR

Date of Hearing : 27.07.2021	Date of Pronouncement : 27.07.2021
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ORDER

Per George George K, JM

This appeal at the instance of the assessee is directed against final assessment order dated 21.10.2016, passed u/s 143(3) r.w.s. 144C(13) of the I.T.Act. The relevant assessment year is 2016-2017.

2. The solitary issue raised is whether sale of software was liable to be taxed as royalty.

3. Brief facts of the case are as follow:

The draft assessment order was passed on 28.12.2010, wherein it was concluded that payment of Rs.42,96,49,035 received by the assessee-company would constitute royalty within the meaning of Article 12(3) of the DTAA and as per the provisions of section 9(1)(vi) of the I.T.Act. The assessee filed objections to the Dispute Resolution Panel (DRP). The DRP issued directions dated 26.09.2019. The DRP rejected all the

objections raised by the assessee. Accordingly, the final assessment was passed on 21.10.2019.

4. Aggrieved by the final assessment, the assessee has preferred this appeal before the Tribunal. At the very outset, the learned Counsel for the assessee submitted that the issue in question is squarely covered in favour of the assessee by the judgment of the Hon'ble Apex Court in the case of *Engineering Analysis Centre of Excellence P.Ltd. v. CIT reported in [2021] 432 ITR 471 (SC)*. The learned Departmental Representative was not able to controvert the submissions made by the learned Counsel for the assessee. In view of the judgment of the Hon'ble Apex Court, which is identical to the facts of this case, we hold that the payment of Rs.42,96,49,035 received by the assessee-company would not constitute royalty and cannot be brought to tax. It is ordered accordingly.

5. In the result, the appeal filed by the assessee is allowed.
Order pronounced on this 27th day of July, 2021.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 27th July, 2021.

Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The DRP-2, Bengaluru
4. The CIT (IT) Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.