

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "D" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.7452/Del/2017
Assessment Year : 2014-15**

DCIT, International Taxation, Circle-1(3)(1), New Delhi.	vs	Gemcom Software Australia Pty Ltd., Level-8, 190, Saint Georges Terrace, Perth WA, Perth 6000 Foreign 999999 PAN-AAECG9585H
APPELLANT		RESPONDENT
Appellant by	Sh.Kumar Pranav, Sr. DR	
Respondent by	Sh. Vishal Kalra, Adv. & Sh. S.S.Tomar, Adv.	
Date of Hearing	06.09.2021	
Date of Pronouncement	06.09.2021	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by Revenue for the assessment year 2014-15 is directed against the order of Ld. CIT(A)-42, New Delhi dated 25.09.2017. The Revenue has raised following grounds of appeal:-

- 1.1. *“Whether on the facts and in the circumstances of the case, Ld. CIT(A) has erred in deleting the addition made by the AO holding that the consideration received by the assessee for sale/distribution of software to the Indian entity cannot be taxed a royalty as provided in the Article 12 of the India-Australia DTAA?”*
- 1.2. *Whether on the facts and in the circumstances of the case, Ld. CIT(A) has erred in deleting the additions made by the AO and not considering the explanation 5 & 5 to section 9 of the Income Tax Act, 1961?*

1.3 *Whether on the facts and in the circumstances of the case, Ld. CIT(A) has erred in relying on the case of DIT Vs Infrasoftware ltd. (Delhi) regardless of the facts that an appeal has been filed before the Hon'ble Supreme Court against the order for adjudication?*

2. *The appellant craves leave to add, modify, amend or alter any grounds of appeal at the time of, or before, the hearing of appeal.”*

2. However, Ld. Counsel for the assessee pointed out that the present appeal pertaining to Assessment Year 2014-15 deserves to be withdrawn as the tax effect involved in the case is below Rs.50 Lacs.

3. Ld. Sr. DR could not controvert the submissions of the Ld. Counsel for the assessee.

4. The CBDT vide Circular No.17/2019 dated 08.08.2019 has revised the monetary limit for filing the appeals before the Tribunal to Rs.50 Lacs. Further, CBDT vide letter dated 20.08.2019 has also clarified that Circular No.17/2019 would be applicable to all pending appeals. In such circumstances, the present appeal filed by the Revenue in case of low tax effect is not maintainable.

5. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for re-institution of appeal, if the requisite material is brought to show that the appeal is protected by the exceptions prescribed in para 10 of the Circular dated 11.07.2018.

6. In conclusion, by applying the CBDT Circular dated 08.08.2019 and letter dated 20.08.2019 (supra), the captioned appeal of the Revenue is dismissed as withdrawn/not pressed.

7. In the result, appeal of Revenue is dismissed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 06th September, 2021.

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Amit Kumar

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI