

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI  
BENCH 'D', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. KUL BHARAT, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No. 118/Del/2021  
(Assessment Year : 2017-18)

International Management Group (UK) Limited Vatika Business Centre, 2 <sup>nd</sup> Floor, Business Suites No.24 & 25, First India Place, Sushant Lok-I, Phase-I, Block-B, Mehrauli Gurgaon Road, Gurgaon Haryana- 122 002  PAN No. AABCI 9309 N <b>(APPELLANT)</b>	Vs.	ACIT (International Taxation)-2(1)(1) New Delhi          <b>(RESPONDENT)</b>
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Assessee by	Shri Rishabh Malhotra, C.A.
Revenue by	Mrs Vandana Ramchandran, CIT

Date of hearing:	08.09.2021
Date of Pronouncement:	08.09.2021

**ORDER**

**PER ANIL CHATURVEDI, AM:**

This appeal filed by the assessee is directed against the order of the Asstt. Commissioner of Income Tax, Circle-2(1)(1), (Intl. Taxn.) New Delhi under section 144C(5) of the Act pursuant

to the directions of Dispute Resolution Panel (DRP) – I, New Delhi order dated 29.10.2020 for Assessment Year 2017-18.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a company incorporated under the laws of United Kingdom ('UK') and is stated to be resident of UK within the meaning of Article – 4 of the Agreement for Avoidance of Double Taxation and Prevention of Fiscal Evasion between India and UK. Assessee filed its return of income for A.Y. 2017-18 on 30.11.2017 declaring income of Rs.8,43,18,751/- which was later on revised on 29.03.2018 declaring total income at Rs.10,67,32,840/-. The case was selected for scrutiny and thereafter, notice u/s 143(2) of the Act was issued and served on the assessee. Subsequently, assessment was framed u/s 143(3) r.w.s 144C(13) of the Act vide order dated 23.12.2020 and the total income was determined at Rs.18,34,89,850/-. Aggrieved by the order of AO pursuant to the direction of DRP, assessee is now in appeal before us and has raised the following grounds:

1. *“That in the facts and circumstances of the case & in law, the order passed by the Ld. Assistant Commissioner of Income Tax (“AO”) under Section 143(3) read with Section 144C(13) of the Income Tax Act 1961 (“the Act”) assessing the income of the Appellant at Rs. 18,34,89,850/- instead of returned income of Rs. 10,67,32,840/- is bad in law.*
2. *That in the facts and circumstances of the case & in law, the Ld. AO as well as Hon’ble Dispute Resolution Panel (“DRP”) erred in not appreciating that the receipts of Rs. 7,67,57,010/- are effectively connected with the admitted PE*

*and is accordingly to be taxed as business income in view of the provisions of Article 13(6) of the India UK DTAA.*

3. *That in the facts and circumstances of the case & in law, the Ld. AO as well as Hon'ble DRP erred in concluding that the balance receipts amounting to Rs. 7,67,57,010/- would partake character of fees for technical services as per the provisions of Article 13 (4) (c) of the India-UK DTAA.*
4. *That in the facts and circumstances of the case & in law, the Ld. AO/Hon'ble DRP grossly erred in misconstruing the principle of make available as per Article 13(4)(c) of the India UK DTAA and accordingly, erred in holding that the receipts of the Appellant satisfies the make available principle and is to be taxed as FTS under the provisions of India UK DTAA."*

4. Before us, at the outset, Learned AR submitted that the issue involved in the present appeal is whether the balance receipts not attributable to permanent establishment of the assessee can be taxed as fees for technical services under Article-13 of the India-UK Tax Treaty. He fairly submitted that the identical issue arose in assessee's own case for A.Ys. 2010-11 to 2016-17 and the issue was decided against the assessee. He therefore submitted that the matter be decided accordingly.

5. Learned DR did not controvert the submissions made by the Learned AR.

6. We have heard the rival submissions and perused the materials available on record. Before us, it is Learned AR's submissions that issue raised in the present appeal is identical to the issues raised in the assessee's own case for A.Ys. 2010-11 to 2016-17 and in those years the issues has been decided against

the assessee. In the absence of any distinguishing feature in the facts of the case in the year under consideration and that of the earlier years, we following the decision of the Co-ordinate Bench of Tribunal in assessee's own case for A.Y. 2010-11 order dated 04.10.2016 and for similar reasons dismiss the appeal of the assessee. **Thus the appeal of the assessee is dismissed.**

**7. In the result, appeal of the assessee is dismissed.**

**Order pronounced in the open court on 08.09.2021**

**Sd/-**

**(KUL BHARAT)  
JUDICIAL MEMBER**

Date:- 08.09.2021

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**Copy forwarded to:**

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

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI