

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER  
(THROUGH VIDEO CONFERENCING)**

ITA No.5083/Del/2018  
Assessment Year: 2013-14

<b>DCIT Taxation), Circle – 1(2)(1) New Delhi</b>	<b>Vs</b>	<b>Carrier Corporation 100, West Tenth Street, Wilmington DE 19801, USA PAN No. AAEECC4806H</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Sanjay Kumar, Sr. DR
Respondent by	Sh. Rishabh Jain,

Date of hearing:	01/02/2022
Date of Pronouncement:	01/02/2022

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal filed by the revenue is preferred against the order of the CIT(A)-44, New Delhi dated 27.04.2018 for A.Y. 2013-14.

2. The solitary grievance of the revenue read as under :-

*“1. Whether on the facts and circumstances of the case and on the basis of law, the Ld.CIT(A) has erred in deleting the addition of Rs.2,03,33,932/- made by AO on account of taxation of Reimbursements for IT related support held to be in the nature of Fee for Included Services [FIS] taxable under Article 12(4) of the Indo-US DTAA and also taxable as*

*Royalty for use of equipment under the IT Act as well as Article 12(3) of the Indo-US DTAA.*

*2. The CIT(A) failed to appreciate that as per the TP study of Indian AE such services were of the nature of FIS and even make available clause was satisfied in the TP study.”*

2. A perusal of the grievance of the revenue show that the deletion by the CIT(A) is subject to 10% of tax u/s.115A of the Act which means that the tax effect would be less than Rs. 50 lakhs, therefore, this appeal is not maintainable as per CBDT Circular No. 17/2019 dated 08.08.2019.

3. This appeal is, accordingly, dismissed with liberty to the revenue to approach the Tribunal as per the provisions of law, should it feel that the tax effect is more than Rs. 50 lakhs.

4. In the result, the appeal filed by the revenue is dismissed.

5. The order is pronounced in the open court on 01.02.2022 in the presence of both the rival representatives.

Sd/-  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:-01.02.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	01.02.2022
Date on which the typed draft is placed before the dictating Member	01.02.2022
Date on which the typed draft is placed before the Other member	01.02.2022
Date on which the approved draft comes to the Sr.PS/PS	01.02.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	01.02.2022
Date on which the fair order comes back to the Sr. PS/ PS	01.02.2022
Date on which the final order is uploaded on the website of ITAT	01.02.2022
Date on which the file goes to the Bench Clerk	01.02.2022
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	