

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.918/Del/2021
Assessment Year: 2017-18

Intelsat US LLC (erstwhile Intelsat Corporation), Unit 1B, First Floor, Aria Signature Towers, Hotel J.W. Marriott, Aerocity, New Delhi	Vs.	DCIT, Circle-2(1)(1), International Taxation, New Delhi
PAN :AADCP6533D		
(Appellant)		(Respondent)

Appellant by	Sh. S.S. Tomar, Advocate Sh. Ankit Sahani, Advocate
Respondent by	Sh. Gangadhar Panda, CIT (DR)

Date of hearing	07.11.2022
Date of pronouncement	11.11.2022

ORDER

PER SAKTIJIT DEY, JM:

The assessee has filed the present appeal challenging the final assessment order dated 19.04.2021 passed under section 143(3) read with section 144C(13) of the Income-tax Act, 1961 (in short 'the Act') pertaining to assessment year 2017-18, in pursuance to the direction of learned Dispute Resolution Panel (DRP).

2. At the outset, on a query by the Bench, learned counsel appearing for the assessee submitted that the defects in the appeal, as pointed out by the registry, are either non-existent or have been removed. We are convinced with the aforesaid submission of learned counsel for the assessee. Accordingly, we admit the appeal for adjudication on merits.

3. The dispute in the present appeal is precisely in relation to taxability of amount received from broadcasting companies towards leasing/rental of transponders located in satellites of the assessee.

4. Briefly the facts are, the assessee is a non-resident corporate entity incorporate under the laws of United States of America (USA) and is a tax resident of that country. As observed by the departmental authorities, the assessee derives its income by providing Satellite Transmission Services to its customers worldwide. The satellites of the assessee are located in the Geostationary Orbit of the Earth. For provision of Satellite Transmission Services, the assessee entered into an agreement with broadcasting companies having TV Channels and communication companies. Broadcasting/communication companies beam their signals through uplinking facilities to outer

space where they are received by a transponder located in the assessee's satellites. The transponders receive the signals and amplify it. Thereafter, the amplified signals are relayed on the footprint area including India to cable operators, who pass them over to end customers. For the assessment year under dispute, the assessee filed its return of income on 04.10.2017 declaring nil income and claiming refund of Rs.8,32,03,769/-, being Tax Deducted at Source (TDS). While framing the draft assessment order, the Assessing Officer rejected assessee's claim that the amount received from Satellite Transmission Services is not taxable in India. Having held so, the Assessing Officer proceeded to frame the draft assessment order by treating the receipts of the assessee from Satellite Transmission Services as royalty and accordingly determined the total income at Rs.88,03,86,325/-. Against the draft assessment order so passed, the assessee raised objection before learned DRP. However, learned DRP did not interfere with the decision of the Assessing Officer.

3. Before us, learned counsel appearing for the assessee submitted, identical issue arising in preceding assessment years has been decided in its favour not only by the Tribunal but also by Hon'ble Jurisdictional High Court. In this regard, he drew our

attention to the relevant orders. Thus, he submitted, the issue is squarely covered in favour of the assessee.

4. Learned departmental representative, though, fairly accepted that in preceding assessment years, the issue has been decided in favour of the assessee, however, he relied upon the observations of the Assessing Officer and learned Commissioner (Appeals).

5. We have considered rival submissions and perused materials on record. A reading of the impugned assessment order and the directions of learned DRP would clearly reveal that by relying upon the approach adopted by them in assessee's case in preceding assessment years beginning from assessment year 2006-07 onwards, they have concluded that the receipts of the assessee from Satellite Transmission Services are in the nature of royalty. However, it is a fact on record that disputing the decision of the departmental authorities' assessee carried appeals to the Tribunal in preceding assessment years. While deciding the issue, the Tribunal has consistently expressed the view that the amount received by the assessee is not taxable as royalty in India. In fact, the Tribunal's decision in assessment years 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 has been upheld by the Hon'ble Jurisdictional

High Court. The latest order of the Hon'ble High Court in ITA No. 346 & 347 of 2022 pertains to assessment years 2014-15 and 2015-16 and has been passed on 21.09.2022. In fact, while deciding identical issue arising in assessee's own case in the immediately preceding assessment year, i.e., AY: 2016-17 in ITA No. 4412/Del/2019, dated 20.05.2022, the Tribunal has followed its earlier decision and held that the amount received from Satellite Transmission Services is not taxable in India as royalty. Thus, respectfully following the consistent view of the Tribunal and the Hon'ble Jurisdictional High Court in assessee's own case, as discussed above, we hold that the amount received by the assessee from Satellite Transmission Services is not taxable in India as royalty. Grounds are allowed.

6. In the result, the appeal is allowed.

Order pronounced in the open court on 11th November, 2022

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 11th November, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi