

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

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.1942/Del/2022
Assessment Year: 2019-20

Intelsat US LLC, C/o- Intelsat India Pvt. Ltd., Unit 1B, First Floor, Aria Signature Towers, Hotel J.W. Marriott, Aerocity, New Delhi	Vs.	ACIT, Circle-2(1)(1), International Taxation, Delhi
PAN :AADCP6533D		
(Appellant)		(Respondent)

Appellant by	Sh. Vishal Kalra, Advocate Sh. Ankit Sahni, Advocate Sh. Yishu Goel, Advocate
Respondent by	Sh. Gangadhar Panda, CIT(DR)

Date of hearing	12.01.2023
Date of pronouncement	31.01.2023

ORDER

PER SAKTIJIT DEY, JM:

Captioned appeal by the assessee challenges the final assessment order dated 24.06.2022 passed under section 143(3) read with section 144C(13) of the Income-tax Act, 1961 (for short 'the Act') pertaining to assessment year 2019-20, in pursuance to the direction of learned Dispute Resolution Panel (DRP).

2. The substantial issue arising for consideration in the present appeal is, whether the receipt from Satellite Transmission Services are in the nature of royalties as defined in Explanation II to section 9(1)(vi) of the Act and Article 12(3) of India – USA Double Taxation Avoidance Agreement (DTAA).

3. Before us, it is an agreed position between the parties that the issue is squarely covered by the decisions of the Tribunal and Hon'ble Jurisdictional High Court in assessee's own case in past assessment years.

4. Having perused the material placed before us, we find, this is a recurring issue between the parties from assessment year 2006-07 onwards and has been consistently decided in favour of the assessee, not only by the Tribunal, but even by Hon'ble Jurisdictional High Court. In the latest order passed for the immediately preceding assessment year i.e. assessment year 2018-19, the Tribunal while deciding the appeal in ITA No.876/Del/2022 vide order dated 20.12.2022 has followed the earlier decisions on the issue and held as under:

“5. We have carefully considered the orders of the authorities below. We find force in the contention of the Counsel the impugned issue was considered by this Tribunal in earlier assessment years since A.Y. 2006-07 to A.Y.2015-16 and the orders of this Tribunal for A.Y.2014-15 and 2015-16 has been 5 affirmed by the Hon'ble High Court in ITA No.346 and 347 of 2022. All these decisions find place

in the findings of the coordinate Bench in ITA No.918/Del/2021 for A.Y. 2017-18 which read as under :-

“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 86 347 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 6 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. Respectfully following the decision of the coordinate Bench read with the decision of the Hon’ble High Court (supra) we hold that the amount received by the assessee from Satellite Transmission Services is not taxable in India as royalty. Ground No. 1 to 6 are allowed.

5. There being no difference in the factual position, respectfully following the consistent view of the Hon’ble Jurisdictional High Court and the Tribunal, we hold that the receipts from Satellite

Transmission Services cannot be treated as royalty, hence, not taxable at the hands of the assessee in India. Accordingly, addition made is deleted.

6. In the result, the appeal is allowed.

Order pronounced in the open court on 31st January, 2023

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 31st January, 2023.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi