

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C': NEW DELHI  
BEFORE  
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No. 687/Del/2023 (A.Y 2017-18)**

ACIT Circle 10(1) New Delhi	Vs.	Interglobe Enterprises P. Ltd. 3 <sup>rd</sup> Floor, Dr. Gopal Das Bhawan, 28, Barakhamba Road, New Delhi <b>PAN No:AAACG3351K</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Rohit Jain, Adv & Ms. Somya Jain, CA
Respondent by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	12/12/2024
Date of Pronouncement	18/12/2024

**ORDER**

**PER YOGESH KUMAR U.S.:**

The present appeal is filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, ('NFAC' for short], dated 24/01/2023 for the Assessment Year 2017-18.

2. The Grounds of Appeal are as under: -

*"Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in deleting the addition of Rs. 37,65,51,700/- made by the Assessing Officer on account of denial of exemptions on transfer of leasehold rights in respect of land and building".*

*"That the appellant craves leave to add, amend, alter or forgo any ground/(s) of appeal either before or at the time of hearing of the appeal".*

3. Brief facts of the case are that, the Assessee filed return of income declaring income of Rs. 52,48,30,080/- assessment proceeding was completed u/s 143(3) of the Income Tax Act, 1961 ('Act' for short) vide order dated 30/09/2021 by computing the income of the Assessee at Rs. 146,03,74,830/- by disallowing an amount of Rs. 55,89,93,050/- u/s 14A of the Act and also made addition of Rs. 37,65,51,700/- u/s 47 (iv) of the Act. Aggrieved by the assessment order dated 30/09/2021, the Assessee preferred the appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 21/04/2023 partly allowed the Appeal of the Assessee. Aggrieved by the order of the Ld. CIT(A) in deleting the addition of Rs. 37,65,51,700/- made on account of denial of exemption on transfer of lease hold rights in respect of land and building u/s 47 (iv) of the Act, the Department of Revenue preferred the present Appeal on the Grounds mentioned above.

4. The Ld. Departmental Representative vehemently submitted that the Ld. CIT(A) committed error in deleting the addition made by the A.O. u/s 47(iv) of the Act on account of transfer of lease hold rights in respect of land and building. Relying on the assessment order and the findings of the A.O., Ld. Department's Representative sought for allowing the Appeal of the Revenue.

5. Per contra, the Ld. Assessee's Representative submitted that the Ld. CIT(A) deleted the addition on the ground that the condition prescribed in Section 47(iv) of the Act were duly satisfied as Inter Globe Education Services Ltd. is wholly owned subsidiary of the Assessee and an Indian Company, thus, the exemption provided u/s 47(iv) of the Act is available to the Assessee. The Ld. Counsel for the Assessee relying on the order of the Ld. CIT(A), sought for dismissal of the Appeal of the Department.

6. We have heard both the parties and perused the material available on record. The Assessee Company acquired lease hold rights on Plot No. 25/3, Knowledge Park-III, Gr. Noida, District Gautam Budh Nagar (UP), from Greater Noida Industrial Development Authority for construction of an aviation training Centre. As per the said lease deed, with prior written permission of the Greater Noida Industrial Development Authority, Assessee has right to transfer the lease hold right to an institution whose activities are similar to those for which the Plot has been allotted. The Assessee had transferred the lease hold rights in the Plot along with the ownership interest in the building/structure constructed thereon to InterGlobal Education Services Ltd. for an aggregate consideration of Rs. 46,07,78,600/- and the said amount has been determined on the basis of Valuation Report of a registered valuer. The said consideration was discharged by the InterGlobal Education Services Ltd. by way of fresh issue of its share to Assessee Company.

7. During the assessment proceedings, based on the valuation undertaken by the DVO, the A.O. opined that the Assessee has undervalued the assets and made addition under the head of 'Business Income' and held that the said transfer of the lease hold right was not exempt u/s 47(iv) of the Act on the ground that *'the Assessee has not been able to explain that the share holding pattern is not exactly same in the case of the subsidiary company.'* Further, the A.O. has also invoked the provision of Section 56(2)(x) of the Act in the hands of the recipient i.e. InterGlobal Education Services Ltd. In the Appeal filed by the Assessee, the Ld. CIT(A) deleted the addition, which is under challenged by the Department of Revenue.

8. The Ld. CIT(A) after verifying the records found that the Assessee had entered into a conveyance deed dated 03/02/2017 which has been registered in the office of Sub-Registrar of District Gautam Budh Nagar, Uttar Pradesh with its wholly owned subsidiary company i.e. M/s InterGlobal Education Services Ltd. The Ld. CIT(A) has also taken into consideration of the fact that the valuation of the lease hold property along with the structures constructed thereon carried out by a Government Registered valuer and the shares were issued by InterGlobal Education Services Ltd. as consideration for the said transfer.

9. As per Section 47(iv) of the Act if the transfer of a capital asset by a company made to its subsidiary company cannot be regarded as transfer and nothing contained on Section 45 of the Act shall apply if the parent company or its nominee holds entire share capital in the transferee subsidiary company; and the subsidiary company is an Indian Company. For the sake of ready reference Section 47(iv) of the Act is reproduced as under: -

*“Transactions not regarded as transfer.*

*47. Nothing contained in Section 45 shall apply to the following transfers:*

.....

*(iv) any transfer of a capital asset by a company to its subsidiary company, if—*

- (a) The parent company of its nominees hold the whole of the share capital of the subsidiary company, and*
- (b) The subsidiary company is an Indian company.”*

9. Considering the fact that InterGlobal Education Services Ltd. is a subsidiary of the Assessee and the Assessee including its nominees holds the entire share capital in InterGlobal Education Services Ltd. and the said InterGlobal Education Services Ltd. being an Indian Company meets all requirements of Section 47(iv) of the Act. Thus, the transfer of lease hold right in respect of the subject property for Assessment Year 2017-18 is not liable to tax. In the absence of any contrary material brought to our notice

by the Department to dispute or disprove the factual aspects mentioned in the order of the Ld. CIT(A), we find no error or infirmity in the order of the Ld. CIT(A). Accordingly, we find no merit in the Grounds of Appeal of the Department of Revenue.

10. In the result, the Appeal filed by the Department is dismissed.

Order pronounced in open Court on 18th December, 2024

Sd/-

**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Dated: 18/12/2024

*R.N, Sr. PS*

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT, NEW DELHI