

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

**BEFORE SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER  
and  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.6415/DEL/2016  
(Assessment Year: 2013-14)**

DCIT, Circle 10 (1),  
New Delhi.

vs.

M/s. Genpact India,  
(now merged with Genpact India  
Private Ltd.),  
Genpact Tower, DLT City, Phase V,  
Sector 53,  
Gurgaon – 122 002 (Haryana).  
**(PAN : AAACG9163H)**

**ITA No.6543/DEL/2016  
(Assessment Year: 2013-14)**

M/s. Genpact India,  
(now merged with Genpact India  
Private Ltd.),  
Genpact Tower, DLT City, Phase V,  
Sector 53,  
Gurgaon – 122 002 (Haryana).  
**(PAN : AAACG9163H)**

vs.

DCIT, Circle 10 (1),  
New Delhi.

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Tarandeep Singh, Advocate  
Shri Sandeep Yadav, Advocate  
REVENUE BY : Shri Kailash Dan Ratnoo, CIT DR

Date of Hearing : 01.05.2025  
Date of Order : 13.06.2025

**ORDER**

1. The Revenue and assessee has filed cross appeals against the order of ld. Commissioner of Income-tax (Appeals)-37, New Delhi dated 18.10.2024 for Assessment Year 2013-14.
2. First we take up Revenue's appeal being ITA No.6415/Del/2016 wherein the following grounds are raised :-

“1. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in treating income of Rs.19,85,67,669/- from interest on fixed deposits as eligible for deduction u/s 10A & 10AA of the LT. Act, 1961.

2. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in treating income of Rs 3,47,65,6621- from interest on inter corporate deposits as eligible for deduction u/s 10A & 10AA of the I.T. Act 1961.

3. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in treating income of 12,61,336/- from interest on employee loans as eligible for deduction u/s 10A & 10AA of the I.T. Act 1961.

4. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in treating income of Rs.21,21,16,226/- from Foreign Exchange Gain & Forward Contract Gain as eligible for deduction u/s 10A & 10AA of the LT. Act, 1961 ignoring the fact, that the gain is arises due to hedging activity and is not derived by the specified business activity.

5. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred ill reducing the Freight & telecommunication charges of Rs.7,03,76,502/- from total turnover also for the purpose of computation of deduction u/s 10A & 10AA of the I.T. Act, 1961.

6. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in reducing the Expense in respect of migration Ion the job training amounting to Rs.150,59,13,198/- from total turnover also for the purpose of computation of deduction u/s 10A & 10AA of the I.T. Act, 1961.

7. Whether on the fact and circumstances of the case & in law, the Ld. CIT(A) erred in deleting the disallowance of Rs.77,43,202/- made by the AO on account of excess depreciation on computer peripherals.

8. Whether on the facts and circumstances of the case & in law, the Ld. CIT(A) erred in deleting the disallowance of Rs.27,20,518/- u/s 14A of the

Act, ignoring the provision of section 14A read with rule 8D of IT Rules, 1962.

3. With regard to Ground Nos.1 to 3, at the outset, ld. AR of the assessee submitted that there is a typing error in grounds drafted by the AO. He submitted that during the year under consideration, the issue in dispute is only vis-a-vis deduction claimed u/s 10AA of the Income-tax Act, 1961 (for short 'the Act'). He submitted that in the assessment order at page 4, para 4.4, AO records that this income "is being taxed as income from other sources and exemption u/s 10AA is not allowable on this income" however thereafter at pages 21 and 22, the AO further clarifies his above conclusions by taxing these interest income as "Other Business Income". Further he submitted that recently identical issue has been decided in favour of the assessee by ITAT in case of assessee for AY 2011-12 in ITA Nos.4000 & 4251/Del/2016 vide order dated 29-04-2024 and relevant issue is discussed at para 7 onwards with conclusion in para 7.5. He submitted that ITAT order for AY 2011-12 has thereafter been followed by ITAT as under :-

- (i) AY 2012-13 in ITA Nos.6414/Del2016 & 6542/Del/2016 order dated 18-12-2024 - relevant issue is discussed at para 6 onwards with conclusions in para 8.

- (ii) AY 2010-11 in ITA No. 677310 2019 & 6582/Del/2019 order dated 11-10-2024 - relevant issue is discussed at para 2 onwards with conclusions in paras 5 and 6.

3.1 Ld. AR submitted that these interest incomes are incidental to the IT/IT Enabled Service business carried on by the assessee and interest earned on fixed deposits and inter corporate deposits are part of the export business of the undertakings claiming deduction under section 10AA of the Act as the assessee had placed temporary surplus generated out of revenue, earned from export of information Technology(IT)/IT Enabled Services (ITeS) as deposits with bank and related companies, so as to make an efficient utilization of the surplus generated out of the assessee's business. He submitted that the deposits were placed with bank and related companies only for such period for which the surplus generated out of the assessee's business could not have been efficiently deployed in the assessee's business/expansion plans. As regards interest on employee's loan, he submitted that employees were engaged in rendering IT/ITeS and hence are part of the day to day running of the business of the assessee and assists in smooth conduct of its business. In view of his above submissions, it is submitted that the interest received are inextricably linked to the conduct of business of the eligible undertakings of the assessee and should also be treated as profit of the business eligible for deduction under section 10AA of the Act. In this regard, he also

relied on the written submissions dated 23-09-2016 filed before CIT(A) at pages 189 to 220 of PB - relevant at pages 195-196 In support of the conclusion of the Id. CIT (A), he further placed reliance on the following decisions :-

- (i) Motorola India Electronics reported in 225 Taxman 11 (Kar)(Mag)
- (ii) Hewlett Packard Global Soft Ltd reported in 403 ITR 453 (Kar)(FB)
- (iii) Riviers Home Furnishing reported in 237 Taxman 520 (Del)
- (iv) Camiceria Apparels India (2019) 103 taxman.com 238(Mad)
- (v) Reliance Energy Ltd reported in 441 ITR 346(SC)

4. Ld. DR of the Revenue relied on the findings of lower authorities.
5. Considered the rival submissions and material placed on record. We observed that the identical issue was decided by the ITAT against the Revenue in ITA Nos.4060 & 4251/Del/2016 for AY 2011-12 vide order dated 29.04.2024. Relevant finding of the said decision is reproduced below :-

“7.5 At the outset, the entire argument of the Id. CIT(DR) need not be gone into at all in view of the fact that the Id. AO himself had treated the said mentioned receipts as only ‘business income’ and not ‘income from other sources’, which is evident from the computation of total income, enclosed in page 20 of the assessment order. Once it is treated as ‘business income’, the assessee would be automatically eligible for deduction u/s 10A & 10AA of the Act. Even otherwise, the provisions of Section 10A(4) are very clear to state that the entire ‘profits of the business of the undertaking’ in proportion of export turnover to total turnover would be eligible for deduction u/s 10A of

the Act. Hence, subject mentioned receipts constitute business receipts would fall within the ambit of Section 10A(4) of the Act, thereby making the assessee eligible for deduction thereon. Similar is the provision in Section 10AA(7) of the Act with the same words. Hence, in view of the explicit provisions of Section 10A(4) and 10AA(7) of the Act, the arguments advanced by the ld. CIT(DR) deserve to be dismissed and we do not find any infirmity in the order of the ld. CIT(A) in this regard. Accordingly, ground nos. 1 to 3 raised by the Revenue are dismissed.”

6. Respectfully following the decision of the coordinate Bench of the Tribunal, we dismiss Ground Nos.1 to 3 raised by the Revenue.
7. With regard to Ground No.4, ld. AR submitted that here again, there is a typing error in grounds drafted by the AO. He submitted that during the year under consideration, the issue in dispute is only vis-a-vis deduction claimed u/s 10AA of the Act and for the year under consideration, foreign exchange gain pertaining to undertaking eligible for deduction under section 10AA was Rs 21,21,16,226/- and deduction u/s 10AA was claimed on this. He submitted that recently identical issue has been decided in favour of the assessee by ITAT in case of assessee for AY 2011-12 in ITA Nos.4060 & 4251/Del/2016 vide order dated 29-04-2024 and relevant issue is discussed at para 8 onwards with conclusions in paras 8.5 to 8.8. He submitted that ITAT order for AY 2011-12 has thereafter been followed by ITAT in AY 2012-13 in ITA Nos. 6414/Del/2016 & 6542/Del/2016 order dated 18-12-2024 and relevant issue is discussed at para 9 onwards with conclusions in para 11. He further placed reliance on the following decisions :-

- (i) Pentasoft Technologies reported in 347 ITR 578 (Mad).
- (ii) Gen Plus Jewellery reported 233 CTR 248(80m)
- (iii) Cognizant Technology Solutions reported in (2023) 151 taxmann.com 401 (Mad) SLP dismissed in 454 ITR 1 (SC).

8. Ld. DR of the Revenue relied on the findings of lower authorities.
9. Considered the rival submissions and material placed on record. We observed that the identical issue was decided by the ITAT against the Revenue in AY 2011-12 vide order dated 29.04.2024 (supra) and for the sake of clarity, the relevant finding of the said decision is reproduced below :-

“8.5 At the outset, we find that assessee had furnished complete details of income from foreign exchange/forward contract gains before the ld. AO vide letter dated 27.02.2015, which is enclosed in pages 154 to 160 of the paper book. The assessee had explained that it had entered into forward contracts with certain banks during the year for hedging its foreign exchange risks on the receivables of export sales. Forward foreign exchange contracts are taken to protect profit margins when receiving or making a foreign currency payment at some point in the future, usually as a result of foreign sales or purchases. A forward contract that lock-in the foreign exchange rate for a future date eliminates the effect that a change in the foreign exchange rate would have on profits. The assessee further explained that there can be two types of gains/losses on account of foreign exchange fluctuations on export transactions:-

- one, arising on account of difference of 'locked-in' foreign exchange rate under forward contract vis-à-vis the rate at which the transaction was recorded in books and
- the other difference being of actual rate at the time of receipt from the customer (which are not hedged) vis-à-vis the rate at which the transaction is recorded in the books.

8.6. The gain / loss arises because of the fact that at the time of booking the sales in the accounts, the exchange rate on the date of raising the invoice is taken into account. Whereas when the actual payment is received from the customer, directly or through bank under a forward contract, the exchange rate may be different. Thus the impact of the difference of the two rates is recorded in the books separately as an exchange gain/ (loss). Hence the nature of receipt

has been completely explained by the assessee. The Id. AR submitted that forward contract outstanding at the end of the year exceeding export receivables at the end of the year is of no consequence or relevance as to that extent, the sales would happen in next year. We find that the Hon'ble Madras High Court in the case of Commissioner of Income Tax v. Pentasoft Technologies Ltd. reported in 347 ITR 578 (Mad) had categorically held that gains arising out of foreign exchange fluctuations are having direct nexus over the export sales of the assessee and would be eligible for deduction u/s 10A of the Act.

8.7. Similar view was taken by the Hon'ble Bombay High Court in the case of Commissioner of Income Tax v. Gem Plus Jewellery India Ltd. Reported in 330 ITR 175 (Bom).

8.8. In view of the aforesaid observations and respectfully following the judicial precedence relied upon hereinabove, ground no. 4 raised by the Revenue is dismissed.”

10. Respectfully following the decision of the coordinate Bench of the Tribunal, we dismiss Ground No.4 raised by the Revenue.
11. With regard to Ground Nos.5 & 6 of Revenue's appeal and Ground Nos.1 & 2 of assessee's appeal, Id. AR of the assessee submitted that here again, there is a typing error in grounds drafted by the Assessing Officer and during the year under consideration, the issue in dispute is only vis-a-vis deduction claimed u/s 10AA of the Act. He submitted that identical issue has been decided in favour of the assessee by ITAT in AY 2011-12 vide order dated 29-04-2024 and relevant issue is discussed at para 5 onwards with conclusions in para 5.1 and 5.2. He further submitted that ITAT order for AY 2011-12 has been followed by ITAT in AY 2010-11 in ITA Nos.6773/0eI/2019 & 6582/De1/2019 order dated 11.10.2024. He submitted that the above-mentioned orders, thereafter, has been followed

by ITAT in AY 2012-13 in ITA Nos. 6414/Del/2016 & 6542/Del/2016 order dated 18.12.2024.

11.1 He further submitted that telecommunication expenses were not invoiced by the assessee to its customers and hence, were not required to be reduced from the export turnover for computing deductions u/s 10AA of the Act. In this regard, the expression 'Export Turnover' has been defined under Explanation 1 (i) to section 10AA of the Act, reproduced as under:

“(i) export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India”

11.2 He further submitted that a perusal of the said definition clearly shows that it is only when such expenses are included in the consideration received in convertible foreign exchange that the same have to be reduced from export turnover and total turnover, however in the instant case, said expenses have not been invoiced by the assessee to the overseas customers/clients and therefore, the same were wrongly excluded by the AO while computing the export turnover u/s 10AA of the Act. He submitted that as regard migration the job training expenses, the assessee gets reimbursed from the customers and reimbursements are netted off

with the respective expense booked by the assessee and therefore, the quantum of export turnover for deduction u/s 10AA does not include such recovery and hence no exclusion is warranted from the export turnover.

- 11.3 Furthermore, he submitted that the assessee has not provided any technical service outside India as the predominant objective is migration of work to Indian units whereby assessee sends people abroad to customer locations to understand in detail the client's operation, data processing system, etc. to prepare for shift of data processing work from abroad to India. He submitted that since as per Explanation 1 (i) only "expenses, if any, incurred in foreign exchange in providing the technical services outside India" is to be excluded, as the same has no applicability in the instant case as the assessee did not incur the said expense for provision of any technical service.
- 11.4 Ld. AR further submitted that in the present case, the export bills were raised by the assessee to its overseas customers basis the agreed rates/ remuneration methodology in respect of the projects executed and revenue from the contracts is recognized by the assessee on the basis of billable time spent by the employees working on the project, priced at the contracted rate. He submitted that telecommunication expenses incurred in foreign currency were not invoiced by the assessee to its overseas customers and hence these expenses cannot be excluded from export

turnover. He submitted that therefore, since the assessee itself had not included the recovery of expenses in respect of telecommunication expenses and migration on the job training services in the figure of 'export turnover' while computing deduction u/s 10AA of the Act, the same cannot be excluded. He submitted that Id. CIT(A) in AYs 2011-12, 2012-13 and 2013-14 partly allowed the ground of appeal raised by the assessee by holding that the amount by which export turnover is reduced on account of telecommunication expenses should be reduced from the total turnover for the purpose of computing the deduction allowable u/s 10AA.

12. Ld. DR of the Revenue relied on the findings of lower authorities.
13. Considered the rival submissions and material placed on record. We find that this issue is covered by the decision of the coordinate Bench in AY 2011-12 vide order dated 29.04 (2024 (supra) in favour of the assessee. For the sake of clarity, the relevant findings of the coordinate Bench is reproduced below :-

“5. Reduction of freight & Telecommunication charges and recovery of expenses in respect of migration/ on-the-job training services from ‘total turnover’ while computing deduction u/s 10A and 10AA of the Act .  
[Ground nos. 1 to 3 of assessee’s appeal and Ground nos. 5 & 6 of Revenue’s appeal]

5.1 We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the business of providing Information Technology Enabled Services such as data entry, data processing services, data conversion, business support and billing services to its customers. During the year under consideration, the assessee company had

claimed deduction u/s 10A/10AA of the Act amounting to Rs.378,22,79,469/-. During the year under consideration, the assessee incurred telecommunication expenses in foreign currency amounting to Rs.23,19,55,704/-. Out of this, the amount pertaining to undertakings eligible for claiming deduction under Section 10A and 10AA of the Act was Rs. 6,20,38,757/- and Rs. 3,24,95,309/- respectively. The above amount included expenses paid to various service providers for landline, mobile connectivity, dial com connectivity, payments made for mail server and various other charges. During the year under consideration, assessee has been reimbursed a sum of Rs 42,61,89,516/- and Rs 60,25,09,242/- on account of migration / on-the-job-training activities relating to undertakings claiming deduction under Section 10A and 10AA of the Act respectively. It is submitted that under the overall ambit of IT/IT Enabled Services, assessee also provides business process outsourcing services to customers located outside India as well as customers located in India. Provision of business process outsourcing services involve carrying out certain back office operations of the customers through employees employed and operating out of the STPI and SEZ units of the assessee in India. For carrying out back office operations of the customers from India, adequate on-the-job training is required to be provided to the assessee's employees in order to enable them to understand the operations of the customers and help in migrating those operations from overseas customer locations to STPI and SEZ units located in India. In order to effect the migration of customer operations from overseas locations to India, some of the employees of the assessee having requisite experience and skill are selected to undergo on-the-job training at overseas customer locations. The expenses incurred by the assessee on such on-the-job training or migration activities are reimbursed by the assessee's customers which, are netted-off against the respective expense items.

5.2 The learned AO by referring to the definition of export turnover as provided in Section 2(iv) of Section 10A of the Act, reduced the telecommunication expenses incurred in foreign currency relating to – reimbursement received by the assessee on account of migration/ on-the-job training activities from the export turnover and correspondingly did not reduce the same from the ambit of total turnover, thereby reducing the claim of deduction u/s 10A/10AA of the Act. This issue is no longer res integra in view of the decision of the Hon'ble Supreme Court in the case of CIT vs. HCL Technologies Ltd reported in 404 ITR 719 (SC), wherein it was held that the items that are subject matter of reduction from export turnover in the numerator need to be reduced in the denominator from the ambit of total turnover also as admittedly total turnover is nothing but the sum total of export turnover and domestic turnover. Hence, the export turnover reflected in the numerator cannot be different from the export turnover figure reflected in the denominator. Hence, for the purpose of computing the deduction u/s 10A/10AA/10B/80HHC/80HHE etc. all items that were sought to be excluded from export turnover need to be excluded from total turnover also in order to bring parity. Respectfully following the said decision, ground nos. 1 to 3

raised by the assessee are allowed and ground nos. 5 and 6 raised by the Revenue are dismissed.”

14. Respectfully following the aforesaid decision of the coordinate Bench, we dismiss Ground Nos.5 & 6 raised by the Revenue and Ground Nos.1 & 2 of assessee's appeal are allowed.
15. With regard to Ground No.7, ld. AR of the assessee submitted that recently identical issue has been decided in favour of the assessee by the ITAT in case of assessee in AY 2011-12 vide order dated 29-04-2024 (supra) and relevant issue is discussed in para 10 onwards with conclusions in para 10.1. He submitted that ITAT order for AY 2011-12 has thereafter been followed by ITAT as under :-
  - (i) AY 2012-13 in ITA Nos. 6414/0e 2016 & 6542/0eV2016 order dated 18-12-2024 - relevant issue is discussed at para 20 onwards with conclusions in para 22.
  - (ii) AY 2010-11 in ITA No. 6773/0e 2019 & 658210e112019 order dated 11-10-2024 - relevant issue is discussed at para 19 onwards with conclusions in paras 21 and 22.
- 15.1 He further submitted that the assets like printers, routers along with other accessories/ peripherals form one integrated system and would be of no use independently of each other, therefore, all such facilities form part of computers and are hence eligible for depreciation rate specified for 'Computers'. He submitted that this issue is now squarely covered by the following decisions :-

- Hotel Excelsior reported in 141 IT J 248 (Del)
- Delhi High Court in case of BSES Yamuna Powers ITA No. 1267 of 2010 order dated 31.08.2010
- Orient Ceramics reported in 200 Taxman 64 (Del) @ para 13
- Delhi High Court in case of M/s Birlasoft Ltd. ITA No. 1284 of 2011 order dated 15.12.2011

16. Ld. DR of the Revenue relied on the findings of lower authorities.
17. Considered the rival submissions and material placed on record. We observed that the identical issue was decided by the ITAT against the Revenue in AY 2011-12 vide order dated 29.04.2024 (supra) and for the sake of clarity, the relevant finding of the said decision is reproduced below :-

“10.1 We have heard rival submissions and perused the materials on record. The assets like printers, routers along with other accessories/ peripherals form one integrated system and would be of no use independently of each other. Therefore, all such facilities form part of computers and hence eligible for depreciation at the rate applicable for computers. This issue is duly covered by the decision of the Hon’ble Jurisdictional High Court in the case of BSES Yamuna Powers in ITA no. 1267 of 2010 dated 31.08.2010 and in the case of Orient Ceramics reported in 200 Taxman 64 (Del). In view of the aforesaid observations and respectfully following the judicial precedents relied upon hereinabove, ground no. 9 raised by the Revenue is dismissed.”

18. Respectfully following the decision of the coordinate Bench of the Tribunal, we dismiss Ground No.7 raised by the Revenue.
19. With regard to Ground No.8, ld. AR of the assessee submitted that undisputedly, there is no exempt income earned by the assessee during the year under consideration and, therefore, section 14A is not applicable.

In this regard, he referred to the decision of PCIT vs Era Infrastructure India Ltd reported in 448 ITR 674(Del).

20. Ld. DR of the Revenue relied on the findings of lower authorities.
21. Considered the rival submissions and material placed on record. We observed that ld. CIT (A) in the appellate order in para 10 at page 4 observed that there is no exempt income earned by the assessee during the year and relying on various decisions of Hon'ble jurisdictional High Court, he allowed the ground raised by the assessee before him. In this regard, we also find force from decision of PCIT vs. Era Infrastructure India Ltd. (supra) that if there is no exempt income earned by the assessee, then section 14A is not applicable. Hence, we do not find any infirmity in the findings of the ld. CIT (A) and accordingly uphold the same. Ground No.8 raised by the Revenue is dismissed.
22. Now we take up assessee's appeal being ITA No.6543/Del/2016 raising following grounds of appeal :-

"1. That on facts and in law the CIT(A) erred in upholding that while computing deduction u/s 10AA of the Act following receipts are to be excluded within the ambit of "export turnover" as defined in Explanation 1 (i) to section 10AA of the Income Tax Act:

(a)	Freight & Telecommunication expenses	Rs. 7,03,76,502/-
(b)	Recovery of expenses in respect of migration/ on-the-job training services	Rs.150,59,13,198/-

2. That on facts and in law CIT(A) erred in not appreciating that recovery of expenses in respect of migration/on-the-job-training services and freight and telecommunication expenses were not included in the figure of "export

turnover" considered by the appellant while computing deduction u/s 10AA of the Act.

3. That on facts and in law the AO/CIT(A) erred in not granting credit for Tax Deducted at Source amounting to Rs.6,04,276/-.

4. That on facts and in law the Commissioner of Income Tax (Appeals) {herein above referred to as CIT(A)} erred in upholding the order of AO partly and not allowing complete relief as claimed.

5. That on facts and in law the order passed by Assessing Officer {herein above referred to as the "AO"} is void ab initio and bad in law.”

23. The assessee has also taken the following additional ground of appeal :-

“The Appellant prays that the Dividend Distribution Tax ('DOT') Rs. 83,34,148 paid under section 115-O of the Income-tax Act, 1961 ('the Act') at the rate of 16.2225 percent on dividends declared and paid by the Appellant to its parent foreign shareholder Genpact India Investments, a tax resident of Mauritius, is in excess of the rate of 5 percent provided under Article 10 of the Double Taxation Avoidance Agreement between India and Mauritius.

The Appellant prays for a grant of refund of the excess DOT paid by it under section 115-O of the Act.”

24. After considering the rival submissions and material placed on record, we observed that the issue raised by the assessee in additional ground goes to the root of the matter challenging the legal issue. In the light of Hon'ble Supreme Court in the case of NTPC, Limited vs. CIT (1998) 229 ITR 383 (SC), we are inclined to admit the additional ground and take up the same for adjudication.

25. Ground Nos.1 & 2 of assessee's appeal are already decided in favour of the assessee while dealing with Ground Nos.5 & 6 of Revenue's appeal as above.

26. With regard to Ground No.3 regarding not granting credit for tax deducted at source amounting to Rs.6,04,276/-, after considering the submissions and material placed on record, we direct the Assessing Officer to allow the credit for TDS as per law after due verification.
27. Grounds No.4 & 5 are general in nature, hence do not require any adjudication.
28. With regard to additional ground raised by the assessee, ld. AR of the assessee submitted that during the year under consideration, assessee declared and paid dividend of Rs.5,13,74,000/- to its parent shareholder, Genpact, Indian Investments, Mauritius. He submitted that the assessee paid dividend distribution tax of Rs.5,13,34,148/- at the rate of 16.2225% u/s 115-O whereas applicable tax rate on such distributions as per the DTAA between India and Mauritius is 5% and the excess DDT paid therefore merits a refund. He submitted that on merits the issue presently stands decided against the assessee by Special Bench decision in case of Total Oil India (P) Ltd reported in [2023] 149 taxmann.com 332 (Mumbai - Trib.) (SB) / [2023] 104 ITR(T) 1 (Mum) (SB) and assessee reserves the right to challenge the Special Bench decision before High Court. He submitted that recently identical issue has been decided by ITAT in case of assessee as under :

- for AY 2011-12 in ITA Nos.4060 & 4251/0e1/2016 vide order dated 29.04.2024. Relevant issue is discussed at para 2.2 onwards with conclusions in paras 3 and 4.
  - for AY 2012-13 in ITA Nos. 6414/Del/2016 & 6542/0e1/2016 order dated 18.12.2024. Relevant issue is discussed at paras 27 and 28.
29. Ld. DR of the Revenue relying on the decision of ITAT, Special Bench in the case of Total Oil India (P) Ltd. submitted that this issue is covered against the assessee and the same is to be dismissed.
30. We find that the issue raised in the additional ground has been decided by the ITAT, Special Bench decision in case of Total Oil India (P) Ltd (supra) wherein very same issue has been decided against the assessee. Accordingly, the additional ground raised by the assessee is dismissed.
31. In the result, the appeal of the Revenue is dismissed and the appeal filed by the assessee is partly allowed.

**Order pronounced in the open court on this 13<sup>th</sup> day of June, 2025.**

Sd/-  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

**Dated: 13.06.2025**  
**TS**

**ITA No.6415/DEL/2016**  
**ITA No.6543/DEL/2016**

**Copy forwarded to:**

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

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**