

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, KOLKATA**

**BEFORE SHRI RAJESH KUMAR, AM  
AND  
SHRIPRADIP KUMAR CHOUBEY, JM**

**ITA Nos.589 & 590/KOL/2024  
(Assessment Years:2017-18 & 2018-19)**

**Indian Oil Petronas Pvt. Ltd.**  
Acropolis Mall, 12<sup>th</sup> Floor, Unit-1  
& II, 1858/1, Rajdanga Main  
Road, Kolkata-700107,  
West Bengal

**(Appellant)**

**Vs.**

**DCIT, Circle 11(1), Kolkata**  
Aaykar Bhavan, 6<sup>th</sup> Floor,  
P-7, Chowringhee Square,  
Kolkata-700069, West Bengal

**(Respondent)**

**PAN No. AAACI5573R**

**Assessee by** : S/Shri N.S. Saini, &  
Sonu Agarwal, ARs  
**Revenue by** : Shri Manoj Kumar Pati, DR

**Date of hearing:** 17.07.2025  
**Date of pronouncement:** 29.07.2025

**ORDER**

**Per Rajesh Kumar, AM:**

These are appeals preferred by the assessee against the orders of the Commissioner of Income-tax (Appeals), Kolkata-22, (hereinafter referred to as the "Ld. CIT(A)"]even dated 31.01.2024 for the AYs2017-18 & 2018-19.

02. The issue involved in both these appeals same as under: -

*"Whether, on a true and harmonious construction of the provisions of the Act, the tax liability of a domestic company, like the appellant, on the dividend distributed to its non-resident shareholders shall be at the rate as applicable in the respective DTAA as the same is more beneficial to the appellant comparing the rates prevailing under the provisions of section 115-0 of the Act?"*

03. The facts in brief are that the assessee is engaged in the business of processing and blending of LPG gas. The assessee manufactured blended LPG out of Butane and Propane. The assessee was formed through a Joint Venture Agreement between Indian Oil Corporation, a Public Sector Undertaking of the Government of India and Petroliaam Nasional Berhad (Petronas), a government Undertaking of Malaysia. During the impugned assessment year, the assessee company paid a dividend of ₹80,40,00,000/- to its shareholder including a dividend paid to Petroleum Nasional Berhad a tax resident company of Malaysia of ₹40,20,00,000/- and paid dividend distribution tax (in short DDT) @20.3576% amounting to ₹16.36,75,482/- u/s 115O of the Act. the assessee during the assessment proceedings submitted before the Id. AO that as per DTAA between government of India and Government of Malaysia tax payable on DDT cannot exceed 5% by relying on the decision of the co-ordinate bench in case of Giesecke & Devrient (India) Pvt. Ltd. (2020) 20 ITR (Trib)-OL 654 (ITAT Delhi). During this impugned assessment year, the assessee claimed the refund of DDT paid of ₹6,17,37,745/- in A.Y. 2017-18 and ₹4,11,58,495/- for A.Y. 2018-19. However, the Id. AO did not accept the same and no finding was given to the assessee's claim.
04. Aggrieved assessee preferred the appeal before the Id. CIT (A). However, the Id. CIT (A) dismissed the appeal of the assessee by following decision of the Special bench Mumbai Tribunal in case of DCIT Vs. Total Oil India Pvt. Ltd. in (2023) 104 ITR (Trib) 1 [ITAT (Mum)(SB)].
05. After hearing the rival contentions and perusing the materials available on record, we find that in the order of the Id. CIT (A), we note that the Id. CIT (A) has followed the Special bench decision of

Mumbai Tribunal in the case of DCIT Vs. Total Oil India Pvt. Ltd (supra), wherein it has been held that the dividend distribution tax is a tax on the income of the company and not on the shareholder and therefore, there is no double taxation of the same. It was also held by the Special Bench that the domestic company u/s 115O does not enter the domain of Double Taxation Avoidance Agreement (DTAA) at all and the DTAA does not get attracted at all when a domestic company pays DTT under section 115-O of the Act. We do not find any infirmity in the order of the Id. CIT (A) and therefore, on this issue, we are inclined to uphold the order of the Id. CIT (A) by dismissing the appeal of the assessee.

06. In the result, both the appeals of the assessee are dismissed.

Order pronounced in the open court on 29.07.2025.

Sd/-  
(PRADIP KUMAR CHOUBEY)  
(JUDICIAL MEMBER)

Sd/-  
(RAJESH KUMAR)  
(ACCOUNTANT MEMBER)

Kolkata, Dated: 29.07.2025

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Kolkata