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

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, AND SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 1130/DEL/2023 [A.Y. 2015-16]
ITA No. 1131/DEL/2023 [A.Y. 2016-17]
ITA No. 1132/DEL/2023 [A.Y. 2017-18]
ITA No. 1133/DEL/2023 [A.Y. 2018-19]
ITA No. 1134/DEL/2023 [A.Y. 2019-20]
ITA No. 1135/DEL/2023 [A.Y. 2020-21]

M/s Everest Global Inc 12770 Merit Drive Suite 800, Dallas C/o Everest Business Advisory India Pvt Ltd, 1st Floor, Spaze Platinum Tower Sector 47, Gurgaon	Vs.	The A. C.I.T Circle – 1(2)(2) International Taxation New Delhi

PAN – AACC E 35 97 R

ITA No. 1269/DEL/2023 [A.Y. 2017-18]
ITA No. 1270/DEL/2023 [A.Y. 2018-19]
ITA No. 1271/DEL/2023 [A.Y. 2019-20]
ITA No. 1272/DEL/2023 [A.Y. 2020-21]

The Dy. C.I.T Circle – 1(2)(2) International Taxation New Delhi	Vs.	M/s Everest Global Inc 12770 Merit Drive, Suite 800, Dallas C/o Everest Business Advisory India Pvt Ltd, 1st Floor, Spaze Platinum Tower, Sector 47, Gurgaon PAN – AACC E 35 97 R
(Applicant)		(Respondent)

Assessee By : Ms. Vandana Bhandri, CA

Department By : Shri Vikram Singh Sharma, Sr. DR

Date of Hearing : 24.06.2025
Date of Pronouncement : 10.09.2025

ORDER

PER BENCH:-

The above captioned bunch of six separate appeals by the assessee and four separate cross appeals by the Revenue are preferred against the order of the ld. CIT(A), Delhi-44 dated 22.02.2023 pertaining to Assessment Years 2015-16 to 2020-21 respectively.

2. Since underlying facts pertain to same assessee and are common in the captioned appeals, they were heard together and are disposed of by this common order for the sake of convenience and brevity.

ITA No. 1130/DEL/2023 [A.Y. 2015-16]
[Assessee's Appeal]

3. The solitary ground raised by the assessee reads as under:

"That in view of facts and circumstances of the case and in law, the CIT-A erred in upholding the addition made by AO being amounts received on account of Marketing & Sales services Rs 1,56,54,910/-, and thereby failed to appreciate that amount is not chargeable to tax either as Fee for technical services under the provisions of the Income Tax Act 1961 or Fee for Included Services under Article 12 of India-USA DTAA."

4. Briefly stated, the facts of the case are that the assessee is a global consulting firm, a LLC registered in USA that assists corporations in developing and implementing leading–edge sourcing strategies including captive outsource and shared services approaches and also provides business transformation, service optimization and service provider consulting services. The assessee was incorporated under the laws of the State of Texas in December 2001 and is headquartered in Dallas, USA. The assessee e-filed its return of income on 28.11.2015 declaring a total income of Rs 53,93,480/-. The case was selected for scrutiny under CASS selection, notice u/s 143(2) of the Act was issued on 04.04.2016 and served upon the assessee.

5. The AO found that the assessee had received Rs 5,20,97,882/- for rendering support services as follows:

Sr No	Nature	Amount
1	Third party clients	Rs 98,79,734
2	Everest Business Advisory India Pvt. Ltd	
3	---Royalty (already offered to tax)	Rs 53,93,479
4	-- Management Fees	Rs 3,68,24,669
5	--Reimbursement	Rs. 4,32,583

The AO noticed that except for Royalty of Rs 53,93,479/-, the assessee has treated the other receipts as exempt. The AO finally, held that the receipts from services offered to third party clients and AEs of Rs 4,67,04,403/-as Fees for Technical services under the Income Tax Act r.w. Indo-US DTAA and be taxed @ 10%.

6. On appeal before the CIT(A), the CIT(A) deleted the additions on account of services rendered and reports sold to third party clients of Rs 98,79,734/; for reports sold to third party clients of Rs 1,86,07,394/- and on account of Management fees of Rs 25,62,365/-. The CIT(A), however, sustained the additions of Rs 1,56,54,910/- made on account of Marketing and Sales Services. Aggrieved, the assessee is before us.

7. The ld. counsel for the assessee submitted that the assessee has rendered marketing services and sales services as per Marketing and Sales Services agreement (enclosed). The assessee has a pool of people with adequate experience and skill in the field of global marketing and sales promotion. The assessee performs global marketing for all Everest Group entities including Everest Business Advisory India Pvt Ltd.

8. The ld. counsel for the assessee continued by saying that marketing services rendered by assessee include, global marketing, for instance promoting brand name, its unique and innovative identity as effective partners in business, communicate services cost effectively through digital and printed advertising, sponsorship of conventions and presentations at industry meetings, direct development of product lines and developing a cohesive overall marketing strategy. Sales services rendered by EGI include sales services including identifying potential clients, developing relationships, presenting products and securing sales orders in respect of customized research reports, pertaining to independent business operations.

9. The ld. counsel for the assessee submitted that the marketing and sales fee received by assessee is not taxable in India as assessee does not

have a Permanent Establishment in India. It is also pertinent to note that sales and marketing team of assessee has not visited India for rendition of these services. Further, amounts so received cannot be characterized as "Fee for Technical services" under Article 12 of India-US treaty.

10. The ld AR further submitted that marketing services were also being rendered by assessee in AY 2010-11, 11-12, 12-13, 13-14 and 14-15 under the umbrella of Management Support Services Agreement which was operative during above assessment years. The Hon'ble ITAT has analyzed the taxability of above agreement and came to the conclusion that services are not Technical services nor do they require any technological knowledge, skill or experience. There is no transfer of technology involved. Everest India is not enabled to apply any technology on its own without recourse to the service provider i.e. the assessee. These services cannot be characterized as Fee for Included Services under Article 12(4)(b) of India- US treaty.

11. The ld AR pointed out that during AY 2015-16, though the assessee entered into a specific agreement on Management and Sales services effective 1.04.2014, however, the nature of services rendered continued

to be same as earlier years. The agreement for provision of marketing and sales services is continuous in nature, thus services are being rendered every year by assessee and evidently, there is no provision in the agreement for transfer of technical knowledge, experience, skill, know-how etc. from the service provider to service recipient.

12. The ld. counsel for the assessee submitted that nature of services is such that FIS clause Article 12(4)(b) cannot trigger. The assessee performs global marketing and sales services from its office in USA and gets consideration for the same and there ends the matter. In order to characterize a particular receipt as "Fee for Included Services" under Article 12(4)(b) of India- US treaty, receipt from rendition of technical or consultancy services should result in ‘making available’ of technical knowledge, experience, skill, know-how, or processes, or consist of the development and transfer of a technical plan or technical design.

13. The ld. counsel for the assessee vehemently submitted that in the given facts, it is nobody' case that the consideration received by the assessee falls under article 12(4)(a) of the tax treaty. Therefore, it is to be examined, whether the consideration received falls within the scope and

ambit of article 12(4)(b). The marketing and sales services rendered by assessee are not technical or consultancy services within the meaning of Article 12(4). Further, rendition of these services do not require any technology. Further, services rendered do not make available technical knowledge, skill, experience, know-how or processes nor does it result in transfer of technical plan or design. In this context principle of ejusdem generis is relevant. The words "skill or experience" cannot be read in isolation without the word "technology". Therefore, the services do not fall in Paragraph 4(b). Further, the fact that the provision of the service that may require technical knowledge, skills, etc., does not mean that technology is made available to the person purchasing the service.

14. The ld. counsel for the assessee referred to the MoU to Indo-US DTAA dated 15.05.1989 to state that Sales and Marketing services rendered by assessee are not covered in definition of FIS under Article 12(4)(b) of the Indo-US DTAA. The ld AR relied on the following case laws:

1. Everest Global Inc V DDIT, (ITA No. 2469/Del/2015, 6137/Del/2015, 2355/Del/2017)- Para 9.7, 9.8
2. Everest Global Inc v DDIT (ITA No. 6697/Del/2017, ITA No. 6698/Del/2017) - Para 8
3. Netafim Ltd v DCIT [2023] 149 taxmann.com 295 (Delhi - Trib.) - Para 9
4. Anand NVH Products Inc. v ACIT [2022] 145 taxmann.com 412 (Delhi - Trib.) - Para 4, 5, 6, 8, 9, 10, 11, 12
5. Tagit Pte Ltd [ITA No. 1945 (Del) of 2022] - Para 7,8

6. Cameron (Singapore) Pte. Ltd v DCIT [2023] 153 taxmann.com 301 (Delhi - Trib.) - Para 5.1, 5.3, 5.4, 5.5,
7. Director of Income-tax v Sheraton International Inc [2009] 178 Taxman 84 (Delhi) - Para 3.1, 5.2, 12.1, 13
8. DCIT v Boston Consulting Group Pte. Ltd [2005] 94 ITD 31 (MUM.) - Para 26
9. Bombardier Transportation Sweden AB v DCIT [2021] 125 taxmann.com 277 (Delhi - Trib.) - Para 21, 22, 24, 25, 26
10. Magotteaux International SA v DCIT [2022] 141 taxmann.com 8 (Delhi - Trib.) – Para 19, 20, 21
11. ACIT v Sheraton Overseas Management Corporation [2024] 159 taxmann.com 482 (Delhi - Trib.) - Para 24 (sub paras 73, 74, 75, 76, 77), Para 27
12. Laserwords US Inc. v DCIT [2024] 162 taxmann.com 543 (Chennai - Trib.) -Para 4.1, 4.1.2, 8
13. De Beers India Minerals (P.) Ltd v CIT, CC [2012] 21 taxmann.com 214 (Kar.) - Para 22, 26, 27, 31

15. The ld. counsel for the assessee concluded by saying that in all the years under consideration, the quarrel is in respect of identical facts. It is the say of the ld. counsel for the assessee that the entire quarrel has been decided by this Tribunal in assessee's own case in Assessment Years 2010-11, 2011-12 and 2012-13 and in A.Ys 2013-14 and 2015-16. The ld. counsel for the assessee supplied copy of the decisions of this Tribunal in ITA Nos. 2469/DEL/2015, 6137/DEL/2015 and 2355/DEL/2017 for Assessment Years 2010-11, 2011-12 and 2012-13 order dated 30.03.2022 and copy of decision in ITA No. 6697/DEL/2017 and 6698/DEL/2017.

16. Per contra, the ld. DR vehemently stated that in so far as the quarrel relating to the consideration received by the assessee towards customized research advisory services is not taxable under the head "Royalty" is not

as per the decision cited before the Tribunal as the same was delivered in respect of software royalty and, therefore, the decision of the Tribunal should not be followed.

17. We have heard the rival submissions and have perused the relevant material on record. We find force in the contention of the ld. counsel for the assessee. In ITA Nos. 469/DEL/2015, 6137/DEL/2015 and 2355/DEL/2017 for Assessment Years 2010-11, 2011-12 and 2012-13 order dated 30.03.2022, the co-ordinate bench has held as under:

> **"9.7 Further, considering the services provided by the assessee (listed above), in our view, these are not technical services nor do they require any technological knowledge, skill or experience. There is no transfer of technology involved. Everest India is not enabled to apply any technology on its own without recourse to the service provider i.e. the assessee. These services have not resulted in any enduring benefit to Everest India by way of any knowledge which could be applied by it on its own in future without depending on the assessee. These are general managerial services which are received by the assessee on recurring basis. Therefore, the test laid down under Article 12(4)(b), in our considered view, are not satisfied in the present factual scenario.**

9.8 Thus, management fee received by the assessee from Everest India is not taxable as FIS under the provisions of India-USA DTAA. Accordingly, this ground is allowed in favour of the assessee."

18. In ITA Nos. 6697/DEL/2017 and 6698/DEL/2017 for A.Ys 2013-14 and 2015-16, this Tribunal, at Paras 6 onwards of its order has considered this issue and decided as under:

"6. We have given thoughtful consideration to the orders of the authorities below. The first common grievance relates to the addition on account of management fee amounting to Rs. 21,43,248/- in A.Y 2013-14 and Rs. 24,90,375/- in A.Y. 2014-15.

7. A perusal of the order of the ld. CIT(A) shows that while confirming the findings of the Assessing Officer, he has followed the findings given by his predecessor in Assessment Year 2011-12. We have carefully perused the decision of the Tribunal in ITA No. 6137/DEL/2015 in Assessment Year 2011-12. This Tribunal, at Para 9.4 of its order has considered this issue and decided as under:

"9.4 Now coming to the facts of the present appeal, the assessee has rendered management support services of the description listed at Annexure C of Master Support Services Agreement to Everest India on independent and non-exclusive basis. These services are centralized services which are being provided to all group entities in order to maintain uniformity and ITA Nos. 2469,

6137/Del/2015 2355/Del/2017 Everest Global Inc. vs DDIT rationalize and standardize the practices across global location. No element of profit is earned by the assessee in course of rendering these services. These services include-

1. Management Oversight a. Strategic direction b. Contract review c. Financial and legal guidance d. Client Relationship Management e. Insurance f. Peer Review

2. Marketing a. Brand Awareness b. Marketplace analysis c. Competitive analysis d. Webinars e. Leadership forum f. Speaking engagements

3. Finance and Accounting a. Payroll b. General ledger c. Employee time and expense d. Revenue and expense accruals e. Payables f. Accounts Receivables g. Cash Management h. Financial Reporting i. Budgeting j. Line of credit access management

4. Human Resource management a. Recruiting b. Compensation c. Benefits administration d. Legal

5. Information Technology a. Laptop Maintenance b. Help desk support c. Desk side support d. User Id and password e. Remote access f. System/antivirus g. Intranet h. Inter site communication links, email, voice mail etc i. Standard computer platform j. New hardware and software k. Training on IT resources ITA Nos. 2469, 6137/Del/2015 2355/Del/2017

Everest Global Inc. vs DDIT l. Licenses and compliance m. Computer and phone networks

6. Training a. Global training conferences b. Monthly training sessions c. Ad hoc training as required

7. Legal a. Contract review b. Litigation management c. Other legal services as required 9.5 We agree with the contention of the assessee that managerial services are outside the scope of the meaning of FIS under Article 12(4) of the India- USA DTAA. Wherever the intention of the legislature is to include managerial services within the scope of FTS/ FIS, the same has been expressly mentioned therein. This contention of the assessee finds support by the jurisdictional Delhi Court judgment in the case of Steria (supra). The relevant para of the judgment is reproduced below.

19. The next question that arises is concerning to extent to which the benefit under the India-UK DTAA can be made available to the Petitioner. As already noticed, the definition of "fee for technical services" occurring in Article 13(4) of the Indo-UK DTAA clearly excludes managerial services. What is being provided by Steria France to the Petitioner in terms of the Management Services Agreement is managerial services. It is plain that once the expression 'managerial services' is outside the ambit of 'fee for technical services', then the question of the Petitioner having to deduct tax at source from payment for the managerial services, would not arise. It is, therefore, not

necessary for the Court to further examine the second part of the definition, viz., whether any of the services envisaged under Article 13(4) of the Indo-UK DTAA are "made available" to the Petitioner by the DTAA with France."

9.6 The assessee's case also finds support from the MOU annexed to the India-USA DTAA explaining the FIS wherein it is clarified that clause 4(b) of Article 12 excludes any service that does not make technology available to the person acquiring the service.

"Memorandum of Understanding (MOU) annexed to the India-USA DTAA dated 15.05.1989 concerning FIS states as under:

> **ITA Nos. 2469, 6137/Del/2015 2355/Del/2017 Everest Global Inc. vs DDIT Article 12 includes only certain technical and consultancy services.**
>
> **But technical services, we mean in this context services requiring expertise in a technology. By consultancy services, we mean in this context advisory services. The categories of technical and consultancy services are to some extent overlapping because a consultancy service could also be a technical service. However, the category of consultancy services also includes an advisory service, whether or not expertise in a technology is required to perform it. Under paragraph 4, technical and consultancy services are considered included services only to the following extent: (1) as described in paragraph 4(a), if they are ancillary and**

subsidiary to the application or enjoyment of a right, property or information for which are royalty payment is made; or (2) as described in paragraph 4(b), if they make available technical knowledge, experience, skill, know-how, or processes, or consist of the development and transfer of a technical plan or technical design. Thus, under paragraph 4(b), consultancy services which are not of a technical nature cannot be included services. {emphasis supplied} Paragraph 4(b) Paragraph 4(b) of Article 12 refers to technical or consultancy services that make available to the person acquiring the services, technical knowledge, experience, skill, know-how, or processes, or consist of the development and transfer of a technical plant or technical design to such person. (For this purpose, the person acquiring the service shall be deemed to include an agent, nominee, or transferee of such person). This category is narrower than the category described in paragraph 4(a) because it excludes any service that does not make technology available to the person acquiring the service. Generally speaking, technology will be considered "made available" when the person acquiring the service is enabled to apply the technology. The fact that the provision of the service may require technical input by the person providing the service does not per se mean that technical knowledge, skills, etc., are made available to the person purchasing the service, within the meaning of paragraph 4(b). Similarly, the use of a product which embodies technology shall not per se be considered to make the technology available. {emphasis supplied} Typical categories of

services that generally involve either the development and transfer of technical plans or technical designs, or making technology available as described in paragraph 4(b), include :

1. Engineering services (including the sub-categories of bio-engineering and aeronautical, agricultural, ceramics, chemical, civil, electrical, mechanical, metallurgical, and industrial engineering) ;

2. Architectural services ; and ITA Nos. 2469, 6137/Del/2015 2355/Del/2017 Everest Global Inc. vs DDIT

3. Computer software development.

Under paragraph 4(b), technical and consultancy services could make technology available in a variety of settings, activities and industries. Such services may, for examples, relate to any of the following areas :

1. Bio-technical services ;
2. Food processing ;
3. Environmental and ecological services ;
4. Communication through satellite or otherwise ;
5. Energy conservation ;
6. Exploration or exploitation of mineral oil or natural gas ;
7. Geological surveys ;
8. Scientific services ; and
9. Technical training."

From the above, it is evident that none of the services provided by the assessee are in the nature of FIS.

9.7 Further, considering the services provided by the assessee (listed above), in our view, these are not technical services nor do they require any technological knowledge, skill or experience. There is no transfer of technology involved. Everest India is not enabled to apply any technology on its own without recourse to the service provider i.e. the assessee. These services have not resulted in any enduring benefit to Everest India by way of any knowledge which could be applied by it on its own in future without depending on the assessee. These are general managerial services which are received by the assessee on recurring basis. Therefore, the test laid down under Article 12(4)(b), in our considered view, are not satisfied in the present factual scenario.

9.8 Thus, management fee received by the assessee from Everest India is not taxable as FIS under the provisions of India-USA DTAA. Accordingly, this ground is allowed in favor of the assessee."

8. On finding parity of facts, we have no hesitation in following the decision of the co-ordinate bench (supra) and direct the Assessing Officer to delete the impugned addition. This ground is, accordingly, allowed."

19. We have carefully perused the decisions of the Tribunal. On finding parity of facts, we have no hesitation in following the decision of the co-

ordinate bench (supra) and direct the Assessing Officer to delete the impugned addition. This ground is, accordingly, allowed.

18. As a result, ITA No 1130/DEL/2023 is allowed.

ITA No. 1131/DEL/2023 [A.Y. 2016-17]
ITA No. 1132/DEL/2023 [A.Y. 2017-18]
ITA No. 1133/DEL/2023 [A.Y. 2018-19]
ITA No. 1134/DEL/2023 [A.Y. 2019-20]
ITA No. 1135/DEL/2023 [A.Y. 2020-21]
[Assessee Appeal]

19. We find that for AY 2016-17 to 2020-21, apart from the ground of additions on account of Marketing and Sales Service fees as FIS, the assessee has raised another ground with regard to addition on account of Consultancy Fees as FIS. With regard to Consultancy Fees, the assessee has taken same plea as in the issue of Marketing and Sales Service fees.

20. We have passed a separate order in respect of the assessment year 2015-16 hereinabove on the issue of taxability of Fee for Marketing services. As the facts and circumstances in ground 2 of all the other instant appeals in all the A.Ys under consideration, are admittedly *mutatis mutandis* similar to Ground no 1 of AY 2015-16, respectfully following the same, we allow the ground 2 of all these appeals of the assessee.

21. The ground no 1 in all the appeals for AY 2016-17 to 2020-21, pertain to taxability of Fee for consultancy services.

22. The ld AR argued that the issue is covered in the favor of assessee in its own case by order of Hon'ble ITAT AY 2010-11 to AY 2012-13 and AY 2013-14 to AY 2014-15 at para 9.4 to 9.8 of ITAT order for observations. The consultancy services and marketing services were being rendered by Everest Global Inc (EGI) upto AY 2014-15 as per Master Support Services Agreement. The assessee entered into an agreement specifically for Consultancy services in AY 2016-17 and Marketing and Sales services in AY 2015-16. The services are rendered every year since AY 2010-11 and continue to be rendered by EGI till date (year 2025).

23. The ld AR presented same arguments as was presented on the issue of Marketing and Sales Service fees being treated as FIS. The ld AR submitted that the Consultancy services do not fall under paragraph 4(b) of Article 12 of the Indo USA DTAA as the “make available” clause is not satisfied and placed reliance on the decision of Delhi High Court in the case of ***CIT V Bio-Rad Lab*** (supra) and cases laws relied in AY 2015-16.

24. Per contra , the Ld DR relied on the arguments rendered on the issue of Marketing and Sales Service fees treated as FIS.

25. We have heard the rival submissions and perused the materials on record. We agree with the assessee's argument that juxtaposing the consultancy services rendered by assessee under Consultancy services agreement with MOU of US-India Treaty and illustrations therein, the consultancy service can not be considered as technical or consultancy services rendered and are not within the meaning under paragraph 4(b) of Article 12. The services rendered by assessee does not require any technology and there is no transfer of technology by assessee to Everest India. We find that the assessee merely rendered the service (share its inputs) and all skills set and knowledge related to rendition of service was withheld by assessee with itself. The assessee does not make available technical knowledge, skill, experience, know-how or processes nor it transfers any technical plan or design. Therefore, the services do not fall in Paragraph 4(b) of Article 12. The agreement under which the services are rendered are continuous in nature, further services are being rendered every year by assessee (since AY 2010-11 till date i.e. 2025) and evidently,

there is no provision in the agreement for transfer of technical knowledge, experience, skill, know-how etc. from the service provider, the assessee to service recipient, Everest India. The services rendered do not result in making available technical knowledge, skill, experience, know-how or processes so as to make service provider redundant in future. We are therefore of the considered view that the Fee received on account of Consultancy services is not taxable under Article 12(4)(b) of the India-USA DTAA. The ground no 1 in all the appeals for AY 2016-17 to 2020-21 are allowed.

ITA No. 1269/DEL/2023 [A.Y. 2017-18]
ITA No. 1270/DEL/2023 [A.Y. 2018-19]
ITA No. 1271/DEL/2023 [A.Y. 2019-20]
ITA No. 1272/DEL/2023 [A.Y. 2020-21]
[Revenue Appeal]

26. In the appeals for AY 2017-18; 2019-20 and 2020-21, the Revenue has raised two grounds of deletion of receipts from Published research Reports and receipts from Custom Research reports as FIS under Article 12 of the DTAA. In appeal for AY 2018-19, only one ground of taxability of receipts from Published research Reports as FIS under I T Act r.w. Indo-US DTAA is raised. We take up both the issues together.

27. We find that in earlier years (AY 2010-11 to AY 2014-15), the AO made addition under alternate heads i.e. taxable as “Fee for Technical Service/FIS or "Royalty" under India-US treaty. The CIT(A) upheld these receipts as Royalty under Article 12 of India-US treaty. The assessee was in appeal before Hon'ble ITAT in earlier years and argument of department was that receipts are taxable as "Royalty". The Hon'ble ITAT held in earlier years (AY 2010-11 to AY 2014-15) that receipts from published reports and custom research reports are not taxable. The ITAT held in the assessee’s own case for AY 2010-11 to 2014-15 in ITA 2469/Del/2015 as under:

> ***“11.3 We find force in the above submission of the assessee. By allowing access to database what assessee grants to customers is only a right to use a copyrighted material (i.e. published report). The assessee does not grant the right to use the copyright. Hence, consideration (subscription fee) received by the assessee is not taxable as royalty under the provisions of Article 12(3) of the India-USA DTAA. Similarly in customized research advisory services the assessee is providing only advisory services through emails or presentations. The output of custom research advisory is not provided through subscription mode or data base access mode and, therefore, the question of access to data base does not arise at all. Further there is no transfer of any copy 'right to the customers. Thus, the considerations received by the assessee towards customized research advisory services are not taxable under the head Royalty. This ground of appeal is allowed.”***

28. This year Revenue has argued that the receipts from the same services are taxable as Fee for Technical Services/Fee for Included Services under Article 12 of India-US treaty. We find that there is no change in factual matrix in this year. We find, for rendering these services of publishing research reports, there is no transfer of technology and the "make available' clause under paragraph 4(b) of Article 12 of the DTAA is not satisfied. We therefore, are of the considered view that this issue is also covered in the order passed herein above. We therefore dismiss the ground no 1 and 2 of the Revenue for the AY 2017-18 to 2020-21.

29. To sum up and conclude, Appeals of the Assessee in ITA Nos. 1130 to 1135/DEL/2023 are allowed. The appeals of the Revenue in ITA Nos. 1269 to 1272/DEL/2023 stand dismissed.

The order is pronounced in the open court on 10.09.2025.

Sd/-	**Sd/-**
[CHALLA NAGENDRA PRASAD]	**[NAVEEN CHANDRA]**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 10th September, 2025

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	*Date of dictation of Tribunal Order*	
2.	*Date on which the typed draft order is placed before the Dictating Member*	
3.	*Date on which the typed draft order is placed before the other Member [in case of DB]*	
4.	*Date on which the approved draft order comes to the Sr. P.S./P.S.*	
5.	*Date on which the fair Order is placed before the Dictating Member for sign*	
6.	*Date on which the fair order is placed before the other Member for sign [in case of DB]*	
7.	*Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website*	
8.	*Date of uploading, inf not, reason for not uploading*	
9.	*Date on which the file goes to the Bench Clerk*	
10.	*Date on which the file goes for Xerox*	
11.	*Date on which the file goes for endorsement*	
12.	*The date on which the file goes to the Superintendent for checking*	
13.	*Date on which the file goes to the Assistant Registrar for signature on the order*	
14.	*Date on which the file goes to the dispatch section for dispatch the Tribunal order*	
15.	*Date of Dispatch of the Order*	
16.	*Date on which the file goes to the Record Room after dispatch the order*	