

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं माननीय श्री जगदीश, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND HON'BLE SHRI JAGADISH, ACCOUNTANT MEMBER

आयकरअपील सं./ ITA Nos.1519, 1520, 1521, 1522, 1523, 1524,
1525, 1526 & 1527/CHNY/2025
(निर्धारणवर्ष / Assessment Years: 2011-12, 2012-13, 2013-14, 2014-15,
2015-16, 2016-17, 2017-18, 2018-19 & 2021-22)

M/s. Redington Distribution Pte Limited,
60 BEA BUILDING, ROBINSON
ROAD, SINGAPORE 999999 Foreign
SINGAPORE.

**Vs. The Deputy Commissioner of
Income Tax,
International Tax
Circle – 2(1),
Chennai.**

[PAN:AAECR7054E]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr. Percy Pardiwalla, Senior
Advocate & Mr. Sandeep Bagmar,
Advocate

प्रत्यर्थी की ओर से /Respondent by

: Ms. E. Pavuna Sundari, CIT.

सुनवाई की तारीख/Date of Hearing

: 28.10.2025

घोषणा की तारीख /Date of Pronouncement

: 29.10.2025

आदेश / ORDER

PER BENCH

Captioned nine appeals filed by the assessee are directed against the different orders of the Ld. Commissioner of Income Tax, Appeal CIT(A),



ITA Nos.1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526 & 1527/CHNY/2025
AYs: 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 & 2021-22)
M/s. Redington Distribution Pte Limited.

Chennai-16 (Appeals), [hereinafter the "Ld.CIT(A)"], all dated 14.03.2025 for Assessment Years (hereinafter the "AYs") 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 & 2021-22 arising out of the orders of the Assistant Commissioner of Income Tax, International Taxation, Circle 2(1), CHE (hereinafter referred to as the "AO") dated 30.03.2024 for AYs 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 and dated 11.07.2024 for AYs 2017-18, 2018-19 & 2021-22 under the Income-tax Act, 1961 (hereinafter "the Act").

2. The assessee has raised somewhat similar grounds in all the captioned appeals. For adjudication, we have taken ITA No. 1519/Chny/2025 for AY 2011-12 as lead case. Grounds of appeal in ITA No. 1519/Chny/2025 are as under:

Based on the facts and in the circumstances of the case and in law, the Appellant respectfully prefers an appeal against the order dated 14 March 2025 passed by the Hon'ble Commissioner of Income Tax (Appeals)-16, Chennai [CIT(A)] under section 250 of the Income-tax Act, 1961 ('the Act') on the following grounds

General:

1. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the assessment order dated 30 March 2024 passed by the learned Assessing Officer ('AO') under section 143(3) read with section 147 of the Act levying tax on revenues earned from sale of software licenses as Royalty income @ 10% on gross basis and including the same in the total income of Appellant.

The Appellant prays that the learned AO be directed to exclude revenues earned from sale of software license from its assessed income.

2. On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in passing the order without affording an effective opportunity of being heard which is a gross contravention of the principles of natural justice.

The Appellant prays that the order passed by the Hon'ble CIT(A) be quashed.

Non-taxation of income from sale of software licenses as Royalty income (Rs. 11,50,12,785):



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AYs: 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 & 2021-22)
M/s. Redington Distribution Pte Limited.

3. *On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the action of the learned AO in levying tax on revenues earned from sale of software licenses as "Royalty" under Article 12 of the India-Singapore DTAA in complete disregard of the law laid down by the Hon'ble Supreme Court in case of Engineering Analysis Centre of Excellence (P) Ltd. V. CIT (2021) 125 taxmann.com 42 (SC).*

The Appellant prays that the learned AO be directed to exclude revenues earned from sale of software licenses from the assessed income and to refund the withholding taxes suffered by the Appellant thereon.

4. *Without prejudice to the above, the Hon'ble CIT(A) erred in rejecting the alternative plea of the Appellant to tax revenues earned from sale of software licenses as Business income under Article.*

7. *of the India-Singapore DTAA basis similar profit attribution methodology as agreed in MAP resolution (25% attribution applying on net profit margins as per audited financials).*

Taxation of interest on income tax refund under section 244A (Rs.46,69,244).

5. *On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the levy of tax @41.6% on interest on income tax refund considering the same to be attributable to alleged PE in India without appreciating that the same is taxable @ 15% in terms of Article 11(2) of the India-Singapore DTAA.*

The Appellant prays that the learned AO be directed to treat interest on income tax refund as not attributable to alleged PE in India and consequently, liable to tax @ 15% under Article 11(2) of the India-Singapore DTAA.

Levy of interest under section 234A and 234B of the Act (Rs. 154,11,786).

6. *On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the levy of interest under section 234A and section 234B of the Act of Rs. 66,53,175 and Rs. 87,58,611 respectively.*

The Appellant prays that learned AO be directed to re-compute interest levied under section 234A and 234B of the Act.

Levy of interest under section 220(2) of the Act (Rs. 71,99,747) << to be taken wherever applicable>>

7. *On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) erred in upholding the levy of interest under section 220(2) of the Act amounting to Rs. 71,99,747.*



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M/s. Redington Distribution Pte Limited.

The Appellant prays the learned AO be directed to delete the levy of interest under section 220(2) of the Act

The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at the time of appeal, so as to enable the Hon'ble Tribunal to decide the appeal in accordance with the law.

3. Redington Distribution Pte Limited (the Company' or 'the Appellant/Assessee' or 'RDPL') is a foreign company and a tax resident of Singapore. The Assessee is a wholly owned subsidiary of Redington Limited, a company incorporated in India. RDPL acts as a fulfilment centre for transactions agreed upon between a vendor and customer for the sale of computers, computer peripherals, etc. (IT hardware) and related software. Facts as noted by the CIT(A) are as under:

Summary of Reassessment Proceedings

A notice under Section 148 of the Income-tax Act, 1961 ("the Act") was issued to the Appellant on 29.03.2018. In response, the Appellant filed its return of income on 25.04.2018, declaring income from the sale of software licences amounting to Rs.11,50,12,785/- offered as royalty income taxable at 10% under the India-Singapore DTAA.

The reassessment proceedings were concluded with an order dated 25.11.2019, passed under Sections 143(3) read with 147 and 144C(13) of the Act. In this order, an addition of Rs.17,61,12,836/- was made towards profits allegedly attributable to a Permanent Establishment (PE) in India, resulting in a tax demand of Rs.20,82,31,507.

Proceedings under MAP



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AYs: 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 & 2021-22)
M/s. Redington Distribution Pte Limited.

While the Assessee challenged the said assessment order before the Hon'ble Income Tax Appellate Tribunal (ITAT), it also filed an application dated 17.01.2022 under the Mutual Agreement Procedure (MAP), seeking resolution of the dispute relating to the alleged existence of a PE and the attribution of profits thereto, in accordance with Article 27 of the India-Singapore DTAA.

During the MAP proceedings, the Competent Authorities of India and Singapore could not reach a consensus on the existence of a PE; however, they proceeded to determine profit attribution assuming the presence of a PE. In order to achieve an expedited resolution and to avoid prolonged litigation—while maintaining its position that no PE exists in India—the Appellant agreed to a settlement under which 25% of the net profits derived from revenue earned from sales in India through channel partners and direct sales to end customers would be attributed to the alleged PE and taxed in India. These attributable profits were computed based on the Assessee's net profit margin as per its audited financial statements. The MAP resolution was formally communicated by letter dated 09.01.2024. It is pertinent to note that the taxability of income from the sale of software licences as royalty under the DTAA was not raised before the MAP authorities and, therefore, was not covered under the MAP resolution. The only related aspect included was the exclusion of software licence revenues while determining PE-attributable income to prevent double taxation of the same revenue. Pursuant to the MAP resolution, the Assessee filed an application dated 15.02.2024 requesting implementation of the said resolution. Consequently, the Assessing Officer (AO) passed an order under Section 143(3) of the Act on 30.03.2024 for Assessment Year (AY) 2011-12, giving effect to the



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M/s. Redington Distribution Pte Limited.

MAP resolution by taxing income from channel partner and direct sales in India accordingly. The AO made the following adjustments compared to the earlier assessment order dated 25.11.2019:

Financial Year	Assessment Year	Original Adjustment	Adjustment Withdrawn	Adjustment Sustained
2010-11	2011-12	17,61,12,836	15,42,93,858	2,18,18,978

Accordingly, the AO re-determined the total income of the Appellant at Rs.13,68,31,763, comprising:

- Rs.2,18,18,978 – PE profit attribution, and
- Rs.11,50,12,785 – income from software licence sales taxed as royalty at 10% on a gross basis.

In adopting this approach, the AO disregarded the Hon'ble Supreme Court's ruling in the case of *Engineering Analysis* (infra). Aggrieved by this order, the Appellant has preferred the present appeal, with detailed facts relating to each ground of appeal discussed below.

4. During the appellate proceedings, the following notices u/s 250 were issued. The details of compliance/non-compliance to the notices are also tabulated below:

Sl.No	Date of Notice	Date for compliance	Remarks
1.	13.01.2025	20.01.2025	Adjournment sought
2.	04.02.2025	10.02.2025	No response
3.	28.02.2025	06.03.2025	Adjournment sought



5. The Id.CIT(A) dismissed the appeal on merits. Now assessee is in appeal before us.

6. The Id. Senior Advocate, Mr. Percy Pardiwalla, vehemently contended the issue on merits and taken us through the various pages of the paper book. The Id. Sr. counsel for the assessee has read out the order giving effect to the MAP order and impugned order. He further referred to the sequence of events chart and paper book as under:

- 29.03.2018- 148 notice issued
- 25.04.2018- ITR filed in response to 148 (pg. 223)
- 25.11.2019- S.147 order passed (pg. 156)
- 22.01.2020- Appeal filed before ITAT in Form 36 (pg. 149)
- 17.01.2022- MAP application filed (pg. 12)
- 02.02.2022- Karnataka HC order for AY 10-11 in the WP
- 16.11.2022- ITAT order passed for AY 11-12 (pg. 109)
- 28.02.2023- OGE to ITAT passed for AY 11-12 (pg. 104)
- 27.02.2023- Re-assessment order for AY 2010-11 passed allowing the Royalty claim as not taxable (pg. 1)
- 09.01.2024- Communication of MAP resolution (pg. 10)
- 15.02.2024- Application for passing OGE to MAP (pg. 5)
- 30.03.2024- OGE passed to MAP resolution
- 29.04.2024- Appeal filed before CIT(A) in Form 35
- 14.03.2025- CIT(A) order passed

Factual Paper book Index

Sl. No.	Particulars	Page Nos.
1.	Copy of re-assessment order dated 27 February 2023 for AY 2010-11 (prior year)	1-4



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2.	Copy of application filed dated 15 February 2024 for Order Giving Effect (OGE) to Mutual Agreement Procedure ('MAP') resolution	5-9
3.	Copy of the MAP resolution dated 9 January 2024 between India and Singapore under article 27 of the India-Singapore Double Taxation Avoidance Agreement	10-11
4.	Copy of application for MAP between India and Singapore dated 17 January 2022	12-103
5.	Copy of OGE to ITAT order dated 18 January 2023	104-108
6.	Copy of the ITAT order dated 16 November 2022	109-148
7.	Copy of Form No. 36 dated 22 January 2020 along with the grounds of appeal filed before the ITAT	149-155
8.	Copy of re-assessment order dated 25 November 2019 for AY 2011-12	156-222
9.	Copy of Income-tax return filed	223-244
10.	Copy of Audited Financial Statements	245-283

Certified that the above documents are available before the Assessing Officer ('AO') and Hon'ble DRP/CIT(A) as indicated above.

7. However, we find that the assessee was not given opportunity to prosecute its cases properly as evident from para 5.2 of the Id. CIT(A) order which has noted as under:

*5.2 In appeal, it is stated that as per the law laid down by the Hon'ble Supreme Court in case of Engineering Analysis Centre of Excellence (P) Ltd. v. Commissioner of Income-tax [2021] 125 taxmann.com 42 (SC), income from sale of software licenses could not be taxed as "Royalty" under Article 12 of the India-Singapore DTAA. **Several opportunities were given to the appellant vide issue of notices u/s 250 during the course of appellate proceedings. As there has been no response/submissions to these notices, the grounds of appeal are disposed off considering the material on record namely the statement of facts, grounds of appeal, order giving effect etc.***



8. Per Contra, the Id.CIT-DR, Ms. E. Pavuna Sundari, CIT relied upon the impugned order and pleaded for the affirmation of the order of Id.CIT(A). However, she did not dispute the para 5.2 of the Id.CIT(A).

9. We have heard the rival submissions, perused the record & dates of events and paper book filed. From the impugned order and the chart referred to above, it is evident that the assessee was neither heard nor represented before the Id.CIT(A). We also observe that while the Id.CIT(A) relied upon the judgments of the Hon'ble Supreme Court in *CIT vs. Sun Engineering Works (P.) Ltd.* [1992] 64 Taxman 442 (SC) and *DCIT vs. Simplex Concrete Piles (India) Ltd.* [1992] 64 Taxman 442 (SC), the assessee was not given an opportunity to distinguish these decisions in light of the peculiar facts of the present case.

Furthermore, there is no specific finding by the Id.CIT(A) regarding the applicability of the Hon'ble Supreme Court's decision in *Engineering Analysis Centre of Excellence (P) Ltd. vs. CIT* [2021] 125 taxmann.com 42 (SC), as relied upon by the assessee. We are of the considered view that a reasoned finding on this issue is essential. Based on the paper book filed, the matter warrants a fresh and detailed examination by the Id.CIT(A).

Accordingly, considering the factual matrix and the principles of natural justice, we set aside the impugned order and restore the appeal to the file of the Id.CIT(A) for **de novo** appellate proceedings. The Id.CIT(A) shall provide a proper and adequate opportunity of hearing to the assessee, who is directed to substantiate its case with all relevant paper books and documents without delay. In case of failure to do so, the Id.CIT(A) shall be at liberty to proceed with the **de novo** appeal as per



ITA Nos.1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526 & 1527/CHNY/2025
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M/s. Redington Distribution Pte Limited.

law. All legal issues are kept open. Needless to say, the assessee shall extend full cooperation during the fresh proceedings.

10. Our above order in ITA No. 1519/Chny/2025 for Assessment Year 2011-12 shall apply *mutatis mutandis* to the following appeals: ITA Nos. 1520, 1521, 1522, 1523, 1524, 1525, 1526, and 1527/Chny/2025, relating to Assessment Years 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, and 2021-22 respectively.

11. It is clarified that nothing contained herein shall be construed as a finding on the merits of the case.

12. In the result, all the captioned appeals (ITA Nos. 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, and 1527/Chny/2025) filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 29th, October, 2025 at Chennai.

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai: दिनांक Dated : 29 -10-2025

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आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF