Commissioner of Income Tax (International Taxation)-1, New Delhi v. GE Precision Healthcare LLC

ITA 149/2025

ITA 149/2025 (Delhi High Court, decided 14 May 2025) | 2025-05-14

GE Precision Healthcare AY 2021–22: standardised-software business receipts not taxable without Indian PE; residual-income argument rejected.

Income-tax Act, 1961: sections 260A, 56(1), 9(1)(vii), 143(3), 144C(13), 144C(1)

High Court of Delhi | 2-judge bench (Division Bench) | Justice Vibhu Bakhru | Justice Tejas Karia

Assessment years: 2021-22

Scope of this order

Assessee retained relief on the disputed software receipts; the separately conceded technical-service income was not exempted.

01 FACTS OF THE CASE

Revenue challenged ITAT's 17 January 2024 order in ITA 2623/Del/2023. The disputed Rs.10,75,55,532 arose from sublicensing standardised software tools to Indian subsidiaries. Separately, Rs.9,17,39,690 of technical-service fees was conceded taxable. Re-filing delay of 276 days was condoned.

Source: PDF p. 2

02 DISCUSSION BY THE HON'BLE COURT

ITAT followed AY 2020–21: these software receipts were business income, not royalty, and were not taxable in India under Article 7 without a permanent establishment. The Court rejected the attempt to tax the same receipts as other sources under section 56(1)/Article 23(3). The earlier High Court decision conformed to Engineering Analysis, (2022) 3 SCC 321.

Source: PDF p. 3

03 JUDICIAL DECISION

Revenue's appeal was dismissed; no substantial question of law arose on the covered issue.

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04 OUTCOME / IN WHOSE FAVOUR

Assessee retained relief on the disputed software receipts; the separately conceded technical-service income was not exempted.

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05 EXPERT COMMENTS

Classification precedes the residual article — The receipts were characterised as business income governed by Article 7. Relabelling the same income as other sources did not avoid the treaty result on this record.

Preserve the permanent-establishment premise — Absence of an Indian PE was material to the Article 7 result. The order does not give every software supplier unconditional immunity regardless of rights transferred or PE facts.

Do not combine different receipt streams — The source expressly records taxable technical-service fees separately from the disputed software receipts. Extending the software result to those fees would contradict the judgment.

Source: PDF p. 3

SOURCE & VERIFICATION

High Court of Delhi official judgment PDF — AKHB Repository (20250514_DLHC011175972024.pdf)

4-page official High Court of Delhi order/judgment PDF (20250514_DLHC011175972024.pdf, 77,724 bytes).

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

Open cited source rendition

All 4 physical source pages read and visually inspected. SHA-256: 37e2eddeb9827e2f01ce696a6ca081a21260ba763df8a27829d255ec5bf8e51b.

STATUTORY SCOPE

The source distinguishes Article 7 business income, Article 12 royalty and the rejected Article 23(3)/section 56(1) treatment under the India-US treaty. Separately conceded technical-service income is preserved.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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