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

BEFORE SH. VIKAS AWASTHY, JUDICIAL MEMBER
AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 2011/Del/2025
(Assessment Year : 2022-23)

M/s. IPSTAR International Pte. Ltd. C/o. IPSTAR (India) Pvt. Ltd. 1007-1009, 10th Floor, Narain Manzil, Barakhamba Road Connaught Place, New Delhi – 110 001 PAN No. **AACCI 6227 L**	Vs.	**ACIT** Circle – 2(1)(1), International Taxation New Delhi – 110 002
(APPELLANT)		(RESPONDENT)

Assessee by	Ms. Ananya Kapoor, Adv.
Revenue by	Dr. Shalini Verma, CIT-D.R.

Date of hearing:	15.07.2026
Date of Pronouncement:	12.10.2026

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER :

The above captioned appeal is preferred by the assessee against the assessment order dated 24.01.2025, passed by Income Tax Department, Office of the Assistant Commissioner of Income Tax, Circle – International Tax 2(1)(1), Delhi (hereinafter referred to as 'ld. AO), under section 143(3)/144C(13) of the Income Tax Act, 1961 (hereinafter 'the Act') in

pursuance of directions of the ld. Dispute Resolution Panel-1, New Delhi (in short 'ld. DRP') dated 21.12.2024 pertaining to Assessment Year 2022-23.

2. Assessee has raised following grounds of appeal :

1. That on the facts and in the circumstances of the case and in law, the Ld. Dispute Resolution Panel ('the Panel') erred in not directing the Learned Assessing Officer ('Ld. AO') to pass appropriate orders holding that the Appellant is not liable to be assessed to tax in India.

1.1. That on the facts and circumstances of the case and in law, the Panel and the Ld. AO erred in not following the orders passed by the Hon'ble High Court of Delhi in the case of Appellant's Group company, Shin Satellite in [2016] 382 ITR 114 (Delhi).

1.2. That on the facts and circumstances of the case and in law, the Ld. AO erred in not holding that the payments received by the Appellant from providing data transmission services are assessable as business profits in India and in the absence of a Permanent Establishment under Article 5 of the India-Singapore Double Taxation Avoidance Agreement ('the DTAA'), the receipts earned by the Appellant are not taxable in India.

2. That on the facts and circumstances of the case and in law, the Ld. AO erred in not passing the final assessment order within the time period prescribed under Section 153 of the Income Tax Act, 1961 ('the Act') and therefore, the said assessment proceedings is liable to be quashed.

3. That on the facts and circumstances of the case and in law, the Ld. AO erred in holding that the receipts earned by the Appellant fall within the ambit of "Royalties" as provided in Explanation 2 to section 9(1)(vi) of the Act and Article 12(3) of the India-Singapore DTAA.

3.1 That on facts and circumstances of the case and in law, the Ld. AO erred in holding that the revenue received by the Appellant is towards right to use of "secret formula or process" thereby falling within the ambit of Royalty under Article 12(3)(a) of the India-Singapore DTAA.

3.2 That on facts and circumstances of the case and in law, the Ld. AO erred in holding that the revenue received by the Appellant is towards right to use of transponder thereby falling within the ambit of Royalty towards use of or right to use of any industrial, commercial or scientific equipment under Article 12(3)(b) of the India Singapore DTAA.

3.3 That on facts and circumstances of the case, the Ld. AO erred in not appreciating that the Appellant, being a resident of Singapore is covered by the beneficial provisions of the India-Singapore DTAA and accordingly, could not be taxed under the provisions of the Act.

3.4 That without prejudice to the above, on facts and circumstances of the case and in law, the Ld. AO erred in reading into the expanded meaning of "royalties" contained in Section 9(1)(vi) of the Act as retrospectively amended by Finance Act, 2012, for the purpose of interpreting the

definition of "royalties" as provided under Article 12(3) of the India-Singapore DTAA, when it is a settled position in law that an amendment in the Act, cannot have any effect for the purpose of interpretation of DTAA as held by the Hon'ble Delhi High Court in the case of Appellant's Group company, Shin Satellite in [2016] 382 ITR 114 (Delhi).

4. *That on the facts and circumstances of the case and in law, the Ld. AO erred in levying interest amounting to INR 6,74,791/-.*
5. *The Ld. AO erred in proposing to initiate penalty proceedings under section 270A of the Act.*

The Appellant submits that each of the above grounds is independent and without prejudice to one another. The Appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal."

3. Brief facts of the case are that the assessee M/s Ipstar International Pte Ltd., is a company incorporated under the laws of Singapore and is a tax resident of Singapore, and has e-filed its return of income for Assessment Year 2022-23 on 07.11.2022 declaring income of Rs. Nil and claimed a refund of Rs.13,49,58,258/- out of total TDS of Rs. 13,49,58,258/-. The case was selected for scrutiny under CASS and notice u/s 143(2) of the Income Tax Act, 1961 ("the Act") was issued to the assessee on 31.05.2023. Further, notices u/s 142(1) of the Act along with detailed questionnaire was issued to the assessee electronically time to time.

4. The assessee has received revenue from India from Antrix Corporation Ltd and Newspace India Ltd (NSIL) by providing satellite transmission services. The breakup of revenue received from the 2 customers in India in AY 2022- 23 is as following:

Party Name	Amount Received in INR
Antrix Corporation Ltd.	94,38,000
Newspace India Ltd HC (NSIL)	1,34,01,44,619
Total	1,34,95,82,619

5. The learned AO proposed in the draft assessment order to tax the receipt from satellite transmission amounting to Rs.134,95,82,619/- as Royalty covered both by Explanation 2(iii) and 2(iva) to Section 9(1)(vi) of the Income Tax Act and also as process royalty and equipment royalty under Article 12(3)(a) and (b) of India-Singapore DTAA. The DRP concurred with the view of the ld AO and in the final assessment order, the same was taxed as per Article 12(2) @10% as under:-

1.	Income declared in original return u/s 139(1)	NIL
2.	Receipts being Royalty from satellite services	INR 1,34,95,82,619
	Total Income	INR 1,34,95,82,619

6. Aggrieved, the assessee is before us.

7. At the outset, the learned AR of the assessee stated that the assessee provides transmission services of voice, data and programmes by provision of space segment capacity on satellites to customers with customers. In order to provide satellite transmission services, the Assessee enters into agreements with its customers. The signals are beamed by the customers through their own uplinking facilities to outer space where they

are received by a transponder located in the satellite owned and operated by the Assessee. The transponder receives the signals and amplifies the same. Thereafter, signals so amplified are relayed on the footprint area including India where the customers catch the signals through their own downlinking facilities and pass them over to the Indian population.

8. The ld AR submitted that the customers do not have any control or physical possession over the satellite nor any right to use the satellite is granted to the customers. The satellites are neither hired out/leased out to the customers nor is any process, (technical) know how and/ or technology is being made available to customers at any stage during the provision of transmission services/ Bandwidth Capacity services.

9. The ld AR submitted that the issue regarding taxability of receipts on account of foreign satellite transmission services has already been decided in favour of Asia Satellite, reported in ***Asia Satellite Telecommunications Co. Ltd. v. Director of Income-tax*** [2011] 332 ITR 340 (Delhi). The Hon'ble High Court held that receipts earned from providing data transmission services through provision of space segment capacity on satellites do not constitute 'royalty'. The Hon'ble High Court has conclusively held that while providing transmission services to its customers, the control of the satellite or the transponder always remains with the satellite operator and the customers are merely given access to

the transponder capacity. Accordingly, since the customer does not utilize the equipment or the processes involved in its operations, the charges paid by it to the satellite operator are not covered within the meaning of 'royalty' and therefore, the same cannot be treated as 'royalty' (para 66, 67, 68 at page 77]. The Hon'ble Delhi High Court, in the case of ***Asia Satellite*** (supra) has, in categorical terms addressed the moot question in favour of the satellite operator observing that the substance of the agreement between satellite operator and its customers is not to grant any 'right to use' qua the process embedded in the transponder or satellite, since the entire control of the satellite and transponder remains with the taxpayer.

10. The ld AR further stated that subsequently, the Finance Act, 2012 made certain retrospective amendments to Section 9(1)(vi) of the Act by insertion of Explanations 5 & 6, wherein amongst others, satellite connectivity payments were sought to be covered within the ambit of the 'Royalty' definition with effect from June 1976. Post the retrospective amendments, the Hon'ble Delhi High Court in the case of ***Shin Satellite*** [2016] 382 ITR 114 (Delhi), a group company, decided the issue of taxability of data transmission services in favour of the taxpayer while holding that the provision of data transmission services is not in the nature of 'Royalties' under the India-Thailand DTAA. The Hon'ble Delhi High Court

held that the first determinative interpretation given to the word 'Royalty' in the decision of ***Asia Satellite*** (supra), when the definitions under the Act and DTAA were *pari materia*, will continue to hold the field and in all cases which involve a DTAA, unless the definition of 'Royalty' under the said DTAAs is amended jointly by both contracting countries to incorporate income from data transmission services as partaking of the nature of royalty, or amend the definition in a manner so that such income automatically becomes royalty. In a nutshell, Hon'ble Delhi High Court confirmed that the taxpayer is not taxable in India since it is covered by the beneficial provisions of the DTAA. The Hon'ble Delhi High Court has followed its own decision in the aforementioned case of ***Asia Satellite Telecommunications Co. Ltd***. (supra) while holding that the Assessee is not eligible to tax in India despite the retrospective amendment made in Section 9(1)(vi) of the Act.

11. The ld AR stated that being a tax resident of Singapore, the Assessee is governed by the provisions of India-Singapore DTAA to the extent they are more beneficial to it. Reliance in this regard is also placed on the decision of the Hon'ble Delhi High Court in ***Commissioner of Income-tax (International Taxation) v. Telstra Singapore Pte. Ltd***. in [2024] 165 taxmann.com 85 (Delhi), wherein it has been adjudicated that provision of bandwidth services to customers does not accord the customers right over

the technology or effective control over any property or equipment. The Court has also noted that the judgment of Hon'ble Madras High Court relied upon by the AO ***Verizon Communication Singapore Lte. Ltd. vs. ITO, International Taxation-I*** is not applicable and the Hon'ble Delhi High Court said that they are unable to agree with the view taken by Hon'ble Madras High Court. The ld AR further relied on the case of ***Criteo Singapore Pte. Ltd.*** [2025] 170 taxmann.com 162(Delhi Trib.) and ***Immarsat Solutions BV V ACIT*** (2023) 156 taxmann.com 218(Delhi Trib.)

12. With respect to the AO argument that the customers of Assessee are getting a Right to use the bandwidth capacity on the satellite of the Assessee, and that the Right is provided by assigning the transponder equipment on the satellite by the Assessee to the client and hence the right to use the bandwidth capacity on the satellite is essentially a lease agreement for the transponder equipment on the satellite, the Ld AR submitted that this allegation is devoid of any merit as Delhi High Court in ***Asia Satellite*** has already noted that often the word "lease" is used in such agreements, however, it is the substance of the agreement which is to be seen and thus it cannot be doubted that a mere service is being provided by the Assessee to NewSpace India Limited.

13. Per contra, learned DR referred to para 9.2 of OECD wherein payment made by telecom network operator to another network operator

is not considered as "Royalty" and India's strong disapproval of the interpretation where payment for transponder leasing is held as not constituting royalty at para 20 of Position of India on Article 12 of the various DTAA as under:

> *"20. India does not agree with the interpretation in paragraph 9.1 of the Commentary on Article 12 according to which a payment for transponder leasing will not constitute royalty. This notion is contrary to the Indian position that income from transponder leasing constitutes an equipment royalty taxable both under India's domestic law and its treaties with many countries. It is also contrary to India's position that a payment for the use of a transponder is a payment for the use of a process resulting in a royalty under Article 12. India also does not agree with the conclusion included in the paragraph concerning undersea cables and pipelines as it considers that undersea cables and pipelines are industrial, commercial or scientific equipment and that payments made for their use constitute equipment royalties. (Added on 22 July 2010; see HISTORY)"*

The ld DR reiterated the AO's argument that the receipts from transponders are equipment royalty and process royalty. The ld DR stated that the receipts are from leasing the transponder and Explanation 6 to section 9(1)(vi) is applicable. Learned DR also referred to the decision of Hon. Supreme Court in the case of Authority for ***Advance Rulings (Income-tax) vs. Tiger Global International II Holdings*** (2026) 182 taxmann.com 375(SC) and ***Verizon Communication Singapore Lte. Ltd. vs. ITO, International Taxation-I (2013) 39 taxmann.com 70(Mad); and GE Energy Parts Inc. V CIT (2019) 101 taxmann.com 142(Del).***

14. We have heard the rival submissions and have perused the material on record. The admitted fact is that the assessee provides transmission services to customers through satellites operated by the assessee. The customers use their own uplinking facilities to send signals, after encoding them, to the satellite operated by the assessee. The transponder, on the satellite receives the signals and amplifies the same and thereafter, signals so amplified are relayed on the footprint area including India where the customers catch the signals through their own downlinking facilities and pass them over to the Indian population.

15. We find that the AO, from the reading of the Bandwidth Service Agreement between the assessee and NewSpace India Ltd dated 01.01.2021, has formed a view that the assessee has leased its bandwidth capacity service, to NSIL who in turn has sub-leased it to its customer. Coupled with the agreement that assessee will assign a transponder equipment to NSIL, the AO held that consideration received by the assessee is for the 'use of', or the 'right to use' the transponder equipment of the satellite by its customers. The AO held that the satellite falls under the category of "any industrial, commercial or scientific equipment" and rights are given to its customers to use the bandwidth capacity of the satellite by assignment of transponder equipment. Consequently, consideration received by the assessee by providing such

right to use on its bandwidth capacity squarely falls under the category of Royalty as per Article 12(3)(b) of India-Singapore DTAA. The AO also held that the consideration is also a Royalty under Article 12(3)(a) of India-Singapore DTAA for the use of, or the right to use a process as well as under Explanation 2 to Section 9(1)(vi)(iii) for use of process as also under (va) for use of scientific equipment.

16. In the given facts and circumstances of the case, we find that the question whether the customers have any control or physical possession over the satellite, has not been answered or established by the AO. From the reading of the Bandwidth Service Agreement, we nowhere find that the assessee has granted to the customers any 'right to use' the satellite. The satellites are neither hired out/leased out to the customers nor is any process, (technical) know how and/ or technology is made available to customers at any stage during the provision of transmission services/ Bandwidth Capacity services.

17. We further find that the hon'ble Delhi High Court in ***Asia Satellite Telecommunications Co. Ltd. v. DIT*** (supra) has already decided the revenue earned from foreign satellite transmission services is not taxable as 'Royalty' in the hands of the assessee, as the control of the satellite or the transponder always remains with the satellite operator and the customers are merely given access to the transponder capacity. The

Hon'ble Delhi High Court has held that in such arrangement, the customer does not get any ‘right to use” qua the process embedded in the transponder or satellite, hence the revenue earned are not process or equipment ‘Royalty’ as under:

> *67. Even after stating so, the Tribunal did not take the aforesaid view to its logical conclusion, viz., the process carried on in the transponder in receiving signals and retransmitting the same, is an inseparable part of the process of the satellite and that process is utilized only by the appellant who is in control thereof. Whether it is done with or without amplification of the signal would not make any difference, in such a scenario.*
>
> *68. We are inclined to agree with the argument of the learned Senior counsel for the appellant that in the present case, control of the satellite or the transponder always remains with the appellant. We may also observe at this stage that the terms "lease of transponder capacity", "lessor", "lessee" and "rental" used in the agreement would not be the determinative factors. It is the substance of the agreement which is to be seen. When we go through the various clauses of the said agreement, it becomes clear that the control always remained with the appellant and the appellant had merely given access to a broadband available with the transponder, to particular customers. We may also point out that against the decision of the AAR in ISRO's case (supra) Special Leave Petition was dismissed by the Supreme Court (see Puran Singh Sahni's case (supra).*

18. We further note that the AO has relied on the interpretation of amended provisions of section 9(1)(vi) given by the hon’ble Madras High Court in the case of ***Verizon Communications*** (supra). We find that the said decision has explicitly not been concurred with, by the Hon'ble Delhi High Court in ***Telstra Singapore Pte Ltd*** (supra). We therefore are of the view that the Madras High Court decision is of no help to the Revenue.

19. We next find that the Revenue have relied on the SLP filed against the decision of Hon'ble Delhi High Court in the case of ***DIT V New Skies Satellite BV (supra)*** to enforce the amended definition by the Finance Act, 2012 of 'Royalty' in section 9(1)(vi) read with Explanation 4,5, and 6. The Hon'ble Delhi High Court in the case of ***Shin Satellite*** (supra), a group company, held that post retrospective amendments to Section 9(1)(vi) of the Act by insertion of Explanations 5 & 6, does not alter the landscape of taxability of 'Royalty'. It held that unless the definition of 'Royalty' under the said DTAAs is amended jointly by both contracting countries to incorporate income from data transmission services as partaking of the nature of royalty, the same is not taxable as 'Royalty'. We therefore, following the decision in ***Shin Satellite*** and ***Asia Satellite,*** hold that the revenue earned from foreign satellite transmission services is not taxable as 'Royalty' in the hands of the assessee, even under amended provisions of section 9(1)(vi).

20. We further note that the Revenue's argument that the assessee has 'leased' out the use the bandwidth capacity to its customers, has already been answered by the hon'ble Delhi Court in ***Asia Satellite*** as noted above. Moreover, as has been held by the Delhi High Court in ***Asia Satellite*** that transponder is not an independent equipment and cannot function de-hors the satellite and thus there cannot be any royalty for

right to use a transponder as the transponder is incapable of be used independently. Furthermore, we note that the customers do not have any control or physical possession over the satellite.

21. In view of the discussion above, we are of the considered view that the assessee is the operator of the Satellite and Antrix/NSIL only get a transmission service and a certain bandwidth. The detailed terms of the agreement between the assessee and the Antrix/NSIL nowhere grants any right to use the satellite or any part thereof nor is any process, secret or otherwise are provided to the customer. The AO himself does not dispute the applicability of decisions of Delhi High Court in ***Asia Satellite*** and ***New Skies*** but only states that SLP is pending in Supreme Court. We also note that all arguments pertaining to the amendment by Finance Act, 2012 and its non applicability, has been duly considered by the Delhi High Court in ***New Skies Satellite BV***. In such factual matrix, we hold that the revenue earned from satellite transmission is neither taxable under the provisions of section 9(1)(vi) of the Act nor is taxable as 'Royalty' under Article 12(3)(a) or 12(3)(b) of the India Singapore DTAA. Ground 1.2, 3 and its sub-grounds are allowed.

22. Ground 4 regarding interest is consequential and ground 5 regarding penalty is premature.

23. Ground 1 is general. Ground 1.2 is not argued, hence not adjudicated. Ground 2 is not pressed, hence dismissed as not pressed.

24. In the result, the appeal in ITA 2011/Del/2025 is partly allowed.

Order pronounced in the open court on 12.10.2026

Sd/-	Sd/-
(VIKAS AWASTHY)	**(NAVEEN CHANDRA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Delhi
Dated: 12-Oct-2026
*Priti Yadav, Sr. PS**

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