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. 585/DEL/2021 [A.Y. 2003-04]
&
CO No. 04/DEL/2025
[A/o ITA No. 1038/DEL/2023 [A.Y. 2005-06]

Canon India Pvt Ltd Unit No. 214-2018, 2nd Floor Narain Manzil, Barakhamba Road, Connaught Place, New Delhi	Vs.	The Dy. C.I.T Circle – 4(2) Delhi
PAN – AAACC 4175 D		

ITA No. 1038/DEL/2023 [A.Y. 2005-06]

The Dy. C.I.T Circle – 4(2) New Delhi Delhi	Vs.	Canon India Pvt Ltd Unit No. 214-2018, 2nd Floor Narain Manzil, Barakhamba Road, Connaught Place, New Delhi PAN – AAAFK 4094 N
(Applicant)		(Respondent)

Assessee By	:	Shri Himanshu Sinha, Adv Shri Jainender Singh Kataria, Adv Shri Prashant Meherchandani, Adv
Department By	:	Shri Vijay B. Basanta, CIT-DR

Date of Hearing : 13.08.2025
Date of Pronouncement : 10.11.2025

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

The above captioned appeal by the assessee is directed against the order of the DRP-1, New Delhi dated 20.01.2021 for A.Y 2003-04. The Revenue has preferred an appeal against the order of the ld. CIT(A), Delhi dated 21.12.2021 pertaining to Assessment Year 2005-06. The assessee has preferred cross objection against this order of the ld. CIT(A), Delhi dated 21.12.2021 pertaining to Assessment Years 2005-06.

2. Since underlying facts pertain to same assessee and identical issues are involved 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. 585/DEL/2021 [A.Y. 2003-04]
[Assessee's Appeal]

3. The grounds raised by the assessee read as under:

"1. That on the facts and circumstances of the case and in law, the Ld. AO as well as Hon'ble Dispute Resolution Panel ('DRP') has erred in not granting complete credit of taxes paid by it in Japan on export

revenues from sale of software and not restricted owing to nil tax liability on account of business losses or 10A deduction under the Income Tax Act, 1961.

1.1. That on the facts and circumstances of the case and in law, the Ld. AO and Hon'ble Dispute Resolution Panel ('DRP') has erred in not allowing complete credit of taxes paid by assessee in Japan on export revenues from sale of software amounting to Rs 20,39,37,900.

1.2. That on the facts and circumstances of the case and in law, the Ld. AO and DRP has erred in not adjudicating the claim of foreign tax credit and has framed a non-speaking order to that extent apparently ignoring the submissions duly filed by the assessee.

1.3. That on the facts and circumstances of the case and in law, the DRP has erred in not adjudicating the additional ground of objection raised by the Assessee during the DRP proceedings for grant of taxes paid in Japan.

1.4. That on the facts and circumstances of the case and in law, the Ld. AO and DRP has erred in not allowing complete credit of taxes paid by assessee in Japan by disregarding the judicial precedents placed by the assessee on record.

That on the facts and circumstances of the case and in law, the Ld. AO has erred in not granting complete credit of taxes withheld at source (by the deductors in India) claimed in the revised return of income amounting to RS 23,90,314/-."

4. Briefly stated, the facts of the case are that the assessee, Canon India Pvt. Ltd., is a company engaged in the business of trading and distribution of imaging and optical products, including cameras, printers, and other equipment. The assessee filed its return for AY 2003-04 on 02.12.2003 declaring loss of Rs. 1,29,49,178/-. Later on the assessee revised the return on 30.10.2004 declaring loss of Rs. 4,48,34,310/- wherein deduction u/s 10A of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short] was claimed against income earned by its STPI unit of RS 3,05,13,171/- Subsequently, the AO framed the assessment u/s 143(3) of the Act on 31.03.2006 at NIL income after setting off b/f losses of Rs. 2,23,80,955/- and after making an upward adjustment of Rs. 3,05,69,734/- as proposed by the Transfer Pricing Officer - 1(2)(1), New Delhi dated 30.12 2019 u/s 92CA(3) of the Act, to the total income of the assessee.

5. The case for the captioned year was picked up for scrutiny assessment and consequent to appeal before this Hon'ble Tribunal, the National Faceless Assessment Centre had passed an order under section 143(3) of the Act read with Section 254 of the Act (hereinafter referred to as the impugned order). Summary of the computation of total income returned by the assessee is as under:

Sl. No	Particulars	Amount (Rs.)
A	PGBP Income from Non STPI Unit	(4,83,42,879)
B1	Gross PGBP Income from STPI Unit	3,39,03,523
B2	Less: Income Exempt u/s 10A	3,05,13,171
B	Net PGBP Income from STPI Unit (b1-b2)	33,90,352
	Total PGBP Income (A + B)	(4,49,52,527)
	Income under the head 'Capital Gains	(11,94,328)
	Income from other Sources	1,18,217
	Total Income	(4,48,34,310)

6. During the Assessment Year 2003-04, the assessee earned certain income from its operations in Japan, on which taxes amounting to RS 20,39,37,900/- were withheld in Japan in accordance with the domestic tax laws of that jurisdiction. In its return of income filed in India, the assessee claimed Foreign Tax Credit (FTC) under Section 90 of the Income-tax Act, 1961, read with Article 23 of the India-Japan Double Taxation Avoidance Agreement (DTAA). The Assessing Officer, while completing the assessment, disallowed the FTC claim on the ground that in the same year, the income corresponding to the Japanese receipts was either exempt under Section 10A or neutralized by brought-forward business losses, resulting in no tax liability in India hence no credit could be granted when there was no Indian tax liability against which the foreign taxes paid could be adjusted. Aggrieved by the disallowance, the assessee preferred an

appeal, relying heavily on the decision of the Karnataka High Court in ***Wipro Ltd. v. DCIT*** and on the ITAT's order for AY 2004-05 in its own case. The present appeal before the Hon'ble ITAT thus concerns the correctness of the disallowance of FTC and not giving any refund as claimed by the assessee by the Assessing Officer for AY 2003-04 in light of the statutory provisions, the DTAA, and judicial precedents.

7. At the very outset, the ld. counsel for the assessee relied upon the written submissions dated 03.04.2025 which are reproduced hereinunder for ready reference:

> **SUMMARY OF KEY CONTENTIONS OF THE ASSESSEE**
>
> **The assessee in the captioned appeal has raised 2 grounds of appeal. Ground 1 of the present appeal for seeking 100% credit of taxes paid in Japan:**
>
> **1.1 The assessee in the income-tax return had not claimed foreign tax credit despite suffering a total withholding of Rs 20,39,37,900 in Japan. No claim was made in the income-tax return under an assumption that complete credit of such taxes would not be allowed in view of the exemption claimed under section 10A of the Act and also because of available brought forward losses.**
>
> **1.2 The claim for entire foreign tax credit made by the assessee in the present appeal is now covered by the decision of the Hon'ble Delhi ITAT in the case of assessee itself [ITA No. 468/Del/2021].**

wherein the Hon'ble ITAT after considering the facts for the AY 2004-05 (which are similar to that in AY 2003-04) allowed the appeal and held that the assessee is eligible for entire credit of foreign taxes deducted in Japan, even if the taxability was nil consequent to the deduction under section 10A brought forward losses. Copy of the order is enclosed at page 75 to 96 of the corporate tax paper- book.

1.3 In passing the favorable order in Assessee's own case for AY 2004-05, the Hon'ble ITAT has relied on Karnataka High Court's decision in the case of *Wipro Ltd. v. DCIT* [2015] 62 taxmann.com 26 (Karnataka). In this decision, the Court after considering facts which are similar to that in case of the assessee held as under:

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1.4 There are several judicial precedents wherein several coordinate benches of this Tribunal have granted allowance of foreign tax credit even in cases of returned loss. Few such rulings are documented as under:

a) M/s Sasken Technologies Limited -Vs. JCIT [2022] 140 taxmann.com 241 (Bangalore - Trib.:

In this case, Hon'ble Bangalore Tribunal relying on the decision of Wipro Ltd. (Supra) allowed the claim of foreign tax credit. The relevant paragraphs are given below:

> **"40. As far as ground No. 8 raised by the assessee is concerned, the same relates to non-grant of credit for Foreign Taxes (FTC). The assessee has 3 business segments. Non-SEZ (in which no**

deduction under section 10AA of the Act had been claimed by the assessee because of losses in this unit) and two SEZ units on which deduction under section 10AA of the Act had been claimed by the assessee. The credit for Foreign Taxes paid were in relation to foreign branches and overseas customers of the non-SEZ units for which no deduction under section 10AA of the Act was claimed by the assessee. The AO denied benefit of FTC for the reason that since the non-SEZ unit was incurring loss, no tax was payable in India. The CIT(A) confirmed the order of the AO.

41. At the time of hearing, it was agreed that the issue with regard to claiming FTC is no longer res integra and has been settled by the Hon'ble Karnataka High Court in the case of Wipro Ltd. v. Dy. CIT[2015] 62 taxmann.com 26/[2016] 236 Taxman 209/382 ITR 179 (Karn.).***

42. The fact that the Assessee suffered loss in Non-SEZ unit and therefore the claim for FTC cannot be allowed cannot be accepted as taxability is not the criteria to deny FTC. Thus ground No. 8 is allowed."

b) M/s Uniparts India Ltd. Vs. CIT (2018-TII-274-ITAT-DEL-INTL): In this case, a consolidated order was passed by Hon'ble Delhi ITAT for 5 different years (2 of which had returned loss i.e., AY 2010-11-returned loss of Rs. 20.27 Crores and AY 2011-12- returned loss

of Rs. 1 Crore), wherein Foreign Tax Credit was allowed to the assessee. **

c) DCIT Vs. Ramco Systems Ltd. (2023) 156 taxmann.com 640 (Chennai - Trib.):

1.5 Perusal of the above judicial precedence evidently states that for allowance of foreign tax credit what is required to be seen is whether the income is chargeable to tax u/s 4 and is includible in the total income u/s 5 of the Income Tax Act. The fact that the assessee is not paying tax due to exemption or deduction granted under the Act or the assessee has suffered loss is not relevant for the purpose of deciding allowability of the claim of Foreign Tax credit.

1.6 It is submitted that, as argued by the assessee during the hearing, for allowability of FTC, only the income which is governed by the DTAA is relevant. It is not relevant as to whether the assessee has tax liability in India arising out of any other income which is not governed by the DTAA, as was erroneously argued by the DR during the hearing. Instead, in case an assessee is not subjected to tax for an income governed by the DTAA but is subjected to tax for another income which is not governed by the DTAA, in case the Tribunal allows FTC to assessee against the tax payable by the assessee on the income not governed by the DTAA, it is equivalent to granting a refund to the assessee in case there was no tax payable on such income. For illustration, Assessee, an Indian resident earned Rs. 100 from a Japanese resident (foreign income) and Rs. 100 from an Indian

resident (domestic income). Assessee pays Rs. 10 as tax in Japan on the foreign income and such income is exempt in India. Assessee has to pay Rs. 20 on the domestic income in India. If as per the Ld. DR, FTC can be granted in such cases, it is equivalent to granting a refund in case there is no tax on domestic income as was allowed by the Hon'ble Karnataka High Court in the case of Wipro (supra) and by several Tribunals including this Hon'ble Tribunal in assessee's own case.

Decision of Hon'ble ITAT, Mumbai Bench in Bank of India vs. ACIT: [2021] 125 taxmann.com 155 (Mum) is distinguishable on facts of the case

1.7 It is submitted that the decision of the Mumbai Bench of the ITAT in case of Bank of India (supra) was rendered in a different factual matrix. The case involved a public sector bank that had earned income from its various overseas banking operations on which income tax had been paid in several foreign countries where it carried on its banking business. In fact, the Hon'ble Tribunal in Para 31 of its order has distinguished the decision of Hon'ble Karnataka High Court in Wipro Ltd. (supra) and observed that since the Wipro decision was rendered in the context of income that was exempt u/s 10A of the Act, the principles laid down therein would not be applicable to Bank of India. The observation of the Hon'ble Tribunal in Para 31 is extracted below:

"...In any case, we must always bear in mind the fundamental fact that at best the Wipro decision (supra) can be seen as an authority for full tax credit something similar to Indian tax credits under the Indo-Namibian tax treaty discussed in Paragraph 21 earlier, rather than an ordinary tax credit, on account of peculiarities of section 10A exemption.

1.8 It is also submitted that the Mumbai Tribunal in paragraph 46 of its order in respect to the Ld. DR's plea that the decision in case of Wipro Limited is not a good law, noted that the issue before Hon'ble Karnataka High Court was materially different than the issue before them.

1.9 It is further submitted that the Bank of India (supra) decision entirely rests on the interpretation of the expression "subject to tax" which has been used in Article 24 pertaining to Elimination of Double Taxation in the India-UK DTAA. The Assessee's case arises in the context of Article 23 of the India- Japan DTAA which does not have any reference to "subject to tax".

1.10 Furthermore, the Wipro decision of the Karnataka High Court had examined the difference between the India-US tax DTAA (which is same as the India-Japan DTAA) and the India-Canada DTAA which is similar to the India-UK DTAA. After having examined the two treaties, the Hon'ble High Court while allowing the credits for under the US treaty, denied the same under the Canada treaty on account of the use of the expression "subject to tax". Therefore, the Tribunal

has grossly erred in observing in Para 33 of Bank of India (supra) that this aspect was not considered by the High Court.

1.11 Additionally, it is submitted that the Hon'ble tribunal in Bank of India case (supra) has incorrectly interpreted Article 23(2) of India-Japan DTAA. Article 23(2) of India-Japan DTAA reads as follow:****

1.12 The highlighted portion above which sets the limit on how much FTC can be claimed has been interpreted by the Mumbai Bench to mean that FTC is restricted to the Indian tax attributable to the income which has been taxed in Japan. The consequence of such interpretation is that it has led the authorities to limit the FTC to the amount of income tax paid in India which is nil. The interpretation adopted by Mumbai tribunal neither finds support from plain reading of the clause nor the ratio laid down in the case of Wipro (supra). On plain reading of the clause, it can be seen that reference is to the income tax paid in Japan and not in India and this interpretation has also been approved in the case of Wipro (supra). The Hon'ble Karnataka High Court gives the following reason for adopting this interpretation:

> **"59. However, the said provision makes it clear that such deduction shall not, however, exceed that part of the income tax (as computed before the deduction is given) which is attributable to the income which is to be taxed in United States. Therefore, an embargo is prescribed for giving such tax credit. In other**

words, the assessee is entitled to such tax credit only in respect of that income, which is taxed in the United States. This provision became necessary because the accounting year in India varies from the accounting year in America. The accounting year in India starts from 1st of April and closes on 31st of March of the succeeding year. Whereas in America, the Ist of January is the commencement of the assessment year and ends on 31st of December of the same year Therefore, the income derived by an Indian resident, which falls within the total income of a particular financial year when it is taxed in United States, falls within two years in India. Therefore, while claiming credit in India, the assessee would be entitled to only the tax paid for that relevant financial year in America, Le., the income attributable to that year in America. In other words, the income tax paid in the same calendar year in United States of America is to be accounted for bee financial years in India. Of course, this exercise should be done by the assessing authority on the basis of the material to be produced by the assessee."

1.13 It essentially follows from the above paragraph that FTC has to be limited to the extent to which taxes have been paid in the other country

1.14 The summary of case laws cited above by Assessee to claim complete credit of taxes paid in Japan is as under for quick and easy reference:

Ground 2 of the present appeal for seeking allowance of complete credit of TDS

2.1 The Assessee in the revised income-tax return had claimed credit of TDS of RS 23,90,314. However, in the impugned order no TDS credit has been granted.

2.2 The Assessee, therefore, prays that ground 2 of the appeal is allowed and the Ld. AO is directed to grant complete credit of TDS of RS 23,90,314.

Additional ground for seeking interest on issuance of FTC Refund

3.1. The Assessee in the ground I of this appeal has sought complete credit of taxes paid of RS 20,39,37,900 in Japan. If the said ground is decided in favour of the Assessee, then it will result in refund due to the Assessee for the captioned year.

3.2. As per provision of section 244A of the Act, where any amount becomes due to any assessee under this Act, it is entitled to receive interest in accordance with the provision of the said section. Therefore, in the instant case, the Assessee is eligible for interest u/s 244A of the Act on the amount of refund due to it.

3.3. Moreover, the Hon'ble Bombay High Court in case of CIT v. Tech Mahindra Limited [2016] 69 taxmann.com 402 (Bombay) held that credit which is available to the assessee in view of DTAA is to be taken into account and any refund should be granted along with interest u/s 244A of the Act. The relevant extract is as under:

"9. We find that both the Commissioner of Income Tax (Appeals) and the Tribunal have while examining the claim for interest on refund granted, considered the fact that the relief under Section 90 of the Act is available in respect of the income tax which is payable both in India as well as in the other Countries with which India has DTAA Therefore, relief under Section 90 of the Act is to be allowed while computing the tax liability in India by virtue of credit being given to the extent that tax has been paid abroad. Therefore, the tax payable is to be computed on the income to be assessed. Thereafter the credit which is available to the assessee in view of DTAA is to be taken into account and if there is any excess which the assessee has paid into the Indian Treasury, then, he is entitled to the refund of the same which would also carry interest in terms of Section244A of the Act."

Based on aforesaid decision, the additional ground for seeking consequential interest u/s 244A of the Act on account of refund determined after including credit of taxes paid in Japan is to be allowed from the first day of assessment year till date of grant of refund considering the taxes paid in Japan as prepaid taxes for the purposes of Section 244A of the Act."

8. Per contra, the ld. DR relied on the orders of the authorities below and has placed written submissions dated 04.09.2025 which read as under:

"Issue for Consideration

3. The core issue in the present appeal is the allowability of Foreign Tax Credit (FTC) under Section 90/91 of the Income-tax Act, 1961, read with Article 23 of the India-Japan DTAA, where the corresponding foreign income is exempt from tax in India. Whether the assessee is entitled to claim Foreign Tax Credit (FTC) in India for taxes withheld in Japan, even though the income was exempt under Section 10A or neutralized due to brought-forward losses, resulting in no Indian tax liability and thereby resulting into a refund.

The Revenue respectfully submits that the claim is legally untenable when examined in light of the statutory provisions of the Act, the express language of Article 23 of the India- Japan DTAA, and binding judicial precedents including the ITAT's decision in the Bank of India case.

4. Under Section 90 of the Income-tax Act, India may enter into DTAA agreements to avoid double taxation. The mechanism of FTC under Section 90(1)(a)(ii) is expressly limited to granting credit against income tax payable in India. Where the income in question yields no taxable income due to exemptions or set-offs, the FTC mechanism cannot be triggered. This interpretation is consistent with the well-settled principle that credit relief provisions are to be interpreted strictly, being in the nature of exemptions.

Background and Context of Foreign Tax Credit Claims

5. Foreign tax credit is a mechanism to avoid double taxation where income is taxed both in the source country (where it is earned) and in the residence country (where the taxpayer is resident). Under India's domestic law and DTAA provisions, a taxpayer is typically allowed a credit for tax paid abroad against the tax payable in India on the same income, subject to certain conditions and ceilings.

- **The India-Japan DTAA (Article 23) specifically provides that where income derived by a resident of India may be taxed in Japan, India shall allow a deduction (credit) from the Indian tax on such income equal to the Japanese tax paid, but not exceeding the Indian tax attributable to that income.**

- **The central question arises when the Indian tax liability on such foreign income is nil (for example, when there is an overall loss or exemption under section 10A), whether the foreign tax credit can still be claimed.**

- **Further, a related question is whether such credit can lead to a refund of taxes already paid in the foreign country by the Indian taxpayer from the Indian exchequer.**

These questions have practical significance for multinational corporations and Indian resident companies with significant overseas operations and tax withholdings.

6. Under Section 90(1)(a)(ii) of the Income-tax Act, credit of foreign taxes is permitted only against Indian income-tax payable by the assessee on such income. This provision makes the existence of a domestic tax liability a precondition for availing FTC. Where there is no Indian tax payable whether because the income is exempt under Section 10A or adjusted by brought-forward losses there is no legal foundation for granting any foreign tax credit.

7. Article 23 of the India-Japan DTAA further reinforces this principle which is reproduced as below:

"ARTICLE 23

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting State except where express provisions to the contrary are made in this Convention.

2. Double taxation shall be avoided in the case of India as follows:

(a) Where a resident of India derives income which, in accordance with the provisions of this Convention, may be taxed in Japan, India shall allow as a deduction from the tax on the income of that resident an amount equal to the Japanese tax paid in Japan, whether directly or by deduction. Such deduction in either case shall not, however, exceed that part of the income-tax (as computed before the deduction is given) which is attributable, as the case may be, to the income which may be taxed in Japan. Further, where such resident is a company by which surtax is payable in India, the deduction in respect of income-tax paid in Japan shall be allowed in the first instance from income tax payable by the company in India and as to the balance, if any, from surtax payable by it in India.

(b) Where a resident of India derives income which, in accordance with the provisions of this Convention, shall be taxable only in Japan, India may include this income in the tax base but shall allow as a deduction from the income-tax that part of the income-tax which is attributable, as the case may be, to the income derived from Japan.

3. Subject to the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan:

(a) Where a resident of Japan derives income from India which may be taxed in India in accordance with the provisions of this Convention, the amount of Indian tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Japanese tax which is appropriate to that income.

(b) Where the income derived from India is a dividend paid by a company which is a resident of India to a company which is a resident of Japan and which owns not less than 25 per cent either of the voting shares of the company paying the dividend, or of the total shares

issued by that company, the credit shall take into account the Indian tax payable by the company paying the dividend in respect of its income."

Paragraph 1 (Saving clause/primacy of treaty provisions):

"The laws in force in either of the Contracting States shall continue to govern the taxation of income... except where express provisions to the contrary are made in this Convention."

This paragraph does not itself grant any credit; it states that each State's domestic tax law continues to apply except where the DTAA expressly provides otherwise. For the present issue, the express contrary provision is in Paragraph 2, which prescribes how India must eliminate double taxation. In other words, absent Paragraph 2, only Indian domestic law would operate; with Paragraph 2, India must follow the credit method as limited by the DTAA's own cap.

Paragraph 2 (Relief in the case of India):

This paragraph lays down India's method to eliminate double taxation. The key operative sub- paragraph for our case is Paragraph 2(a):

- **2(a) (Credit method with cap): "Where a resident of India derives income which, in accordance with the provisions of this Convention, may be taxed in Japan, India shall allow as a deduction from the tax on the income of that resident an amount equal to the Japanese tax paid... **Such deduction... shall not, however, exceed that part of the income-tax (as computed before the deduction is given) which is attributable ... to the income which may be taxed in Japan."**

Two features are decisive for the assessee, M/s Canon India Pvt Ltd: (i) the relief is a credit against "the tax on the income" in India, i.e., there must be Indian tax payable; and (ii) the credit is capped at the Indian tax attributable to that Japanese-sourced income. Il the Indian

tax attributable to that income is nil, the allowable credit is nil. The legacy reference to adjustment vis-à-vis income-tax first and surtax thereafter (now obsolete) simply underscores that credit operates against existing Indian tax, not as a standalone refund.

- **2(b) (Exemption-with-progression for income taxable only in Japan): "Where a resident of India derives income which, in accordance with the provisions of this Convention, shall be taxable only in Japan, India may include this income in the tax base but shall allow as a deduction from the income-tax that part of the income-tax which is attributable... to the income derived from Japan."**

This is a separate rule for items taxable only in Japan (exemption with progression). It is not the basis for an FTC on income that is merely "may be taxed" in Japan; Canon's claim concerns 2(a), not 2(b).

Paragraph 3 (Relief in the case of Japan):

This paragraph mirrors the relief method on the Japan side (credit in Japan for Indian tax). It is not directly applicable to an Indian resident's FTC claim but confirms the reciprocal credit mechanism with a cap on the source-country tax credit (i.e., Japan's credit cannot exceed the Japanese tax on that income).

8. Application to Canon (and distinction from Wipro case relied upon by the assessee)

Applying Paragraph 2(a) to Canon's facts for AY 2003-04, the Indian tax attributable to the Japanese income is nil because the income was exempt under Section 10A and/or neutralized by brought-forward losses. Under the DTAA's own words credit is allowed "as a deduction from the tax on the income" and "shall not exceed" the Indian tax attributable to that income-no credit can be granted where there is no Indian tax payable. This is exactly the narrow ceiling built into Article 23(2)(a).

9. Even accepting the correctness of the Karnataka High Court's ruling in Wipro Ltd. v. DCIT for argument's sake, refund on account of FTC still cannot be allowed in the case of the assessee, Canon India Pvt. Ltd. The facts in Wipro are materially distinguishable. In Wipro, the taxpayer had substantial Indian tax liability on non-exempt income, and the FTC claimed was only a small part of the overall tax paid in India. Thus, the existence of such tax liability satisfied the requirement of Clause 2 of Article 23, and the credit was capped at the amount of Indian tax payable. In the present case, however, no tax was payable in India due to the operation of Section 10A and the set-off of brought-forward losses. As a result, there is no Indian tax liability against which the foreign taxes withheld in Japan can be credited.

10. The ITAT's order for AY 2004-05 in Canon India also does not advance the assessee's case. The Tribunal in that year has not directed the Revenue to issue Revenue and merely stated that the issue was covered by the Wipro decision and directed the Assessing Officer to follow it. The case of Wipro has not dealt with issue of refund on account of allowance of foreign tax credit. The order did not conduct a detailed analysis of Clause 2 of Article 23, nor did it address a nil-tax scenario as in the present year. Even under the Wipro principle, if there is no Indian tax payable, there can be no credit allowable. Importantly, neither Section 90 of the Act nor Article 23 of the DTAA contemplates any refund of foreign taxes. FTC is strictly a credit mechanism against Indian tax liability and cannot be converted into a refund mechanism. Granting such credit in the absence of domestic liability would lead to a situation of double non-taxation, which is expressly against the object and purpose of the DTAA and the statutory scheme.

11. This interpretation also aligns with international best practices. The OECD Commentary on Article 23 (Paragraphs 32-34) clearly states that credit under the credit method is limited to the amount of domestic tax payable and cannot be used to create refunds or

subsidies. The UN Model Commentary, which closely aligns with India's treaty approach, reiterates the same principle and cautions against allowing FTC where there is no domestic tax payable. These commentaries confirm that the purpose of FTC is to neutralize double taxation, not to create a financial advantage or windfall for taxpayers.

12. Applying these principles to the present facts, it is clear that for AY 2003-04, the assessee's Japanese income was either exempt under Section 10A or neutralized by losses. Consequently, there was no Indian tax payable on such income, and under Clause 2 of Article 23, the allowable FTC is nil. Allowing FTC in this situation would amount to an impermissible refund of foreign taxes by the Indian Revenue, an outcome that is neither contemplated by the Act nor supported by the treaty.

13. Various Judicial precedents consistently support the Revenue's interpretation.

The facts of the case of Bank of India (ITA No. 869/Mum/2018) are exactly similar to the assessee's case.

The Mumbai Bench of the Income Tax Appellate Tribunal (ITAT) in the case of Bank of India (ITA No. 869/Mum/2018) for Assessment Year 2012-13 examined the issue of whether Foreign Tax Credit (FTC) can be claimed as a refund when no Indian tax liability arises. The Bank had paid substantial foreign income taxes in multiple countries, including Japan, on profits earned abroad. However, in India, it declared an overall loss, resulting in zero tax liability. Despite this, the Bank claimed that the foreign taxes paid should either be credited or refunded. Both the Assessing Officer (AO) and the Commissioner of Income Tax (Appeals) [CIT(A)] rejected the refund claim, and the matter reached the Tribunal.

14. The ITAT analyzed the provisions of domestic law under sections 90 and 91 of the Income Tax Act, 1961, along with the India-Japan Double Taxation Avoidance Agreement (DTAA). It reiterated the

settled position that FTC is a mechanism for relieving double taxation and cannot exceed the amount of Indian tax payable on the relevant foreign income. In a situation where no Indian tax is payable, no FTC can be allowed. The Tribunal emphasized that granting credit when no Indian tax liability exists would effectively amount to the Indian exchequer subsidizing foreign governments, which is impermissible under law. It further clarified that the term "subjected to tax" means actual liability to tax in India, not a mere notional inclusion in the computation of income. Hence, if the net computation results in a loss, foreign income cannot be considered as subjected to tax in India.

15. The assessee relied on the Wipro decision, which had allowed FTC in a case involving exemption under section 10A. However, the Tribunal distinguished that case, explaining that Wipro involved a statutory exemption, whereas in Bank of India, the overall result was a loss return, not an exempt income scenario. The Tribunal also drew support from international jurisprudence, OECD commentary, and Indian case law to hold that the credit method under both treaties and domestic law does not contemplate a refund of foreign taxes paid. The FTC is intended to mitigate double taxation, not to operate as a mechanism for refunding taxes paid abroad.

16. Accordingly, the Tribunal concluded that the Bank was not entitled to a refund of foreign taxes paid in a year when no Indian tax liability arose. FTC can only be availed to the extent of Indian tax payable on foreign income, and income must be actually subjected to tax in India for FTC to be effective. Thus, refund of foreign taxes from the Indian exchequer is impermissible.

17. When compared with the Supreme Court ruling in CIT v. Yokogawa India Ltd. (2017) 77 taxmann.com 41 (SC), the principle applied is consistent. In Yokogawa, the Supreme Court held that section 10A income was to be excluded from the total income at the stage of gross total income, meaning such income was not chargeable to tax. The Court emphasized that relief provisions must be interpreted strictly within their statutory framework. Applying this logic, the ITAT in Bank of India held that FTC cannot arise unless there is an actual

Indian tax liability on the relevant income. Just as income exempt under section 10A is treated as outside the tax net in Yokogawa, foreign income neutralized by losses in Bank of India was treated as not subjected to Indian tax, thereby disentitling FTC.

18. The revenue's stand also finds support in the earlier High Court decisions in CIT v. Dr. R.N. Jhanji (185 ITR 586) and CIT v. M.A. Morris (210 ITR 284). In Dr. R.N. Jhanji, the Punjab & Haryana High Court held that double taxation relief under section 91 cannot exceed the Indian tax payable on the doubly taxed income. Similarly, in M.A. Morris, the Kerala High Court held that credit for taxes paid abroad is not available when no tax is payable in India on the corresponding income. Both these judgments reinforce the principle that FTC operates as a credit against Indian tax liability and not as an independent refund mechanism.

19. Taken together, the decisions in Bank of India, Yokogawa, Dr. R.N. Jhanji, and M.A. Morris reflect a consistent judicial approach: FTC is a relief against double taxation and is strictly limited to the amount of Indian tax payable on the foreign income. It cannot be claimed in years of nil Indian tax liability, nor can it be stretched to allow refunds of foreign taxes paid abroad. This ensures that the FTC mechanism functions as a shield against double taxation but not as a subsidy or refund scheme.

20. Further the Karnataka High Court decision in Wipro Ltd. v. DCIT relied upon by the assessee is distinguishable. Firstly, that case pertained to deduction situations where the income was included in the total income but subject to deduction, not outright exemption. Secondly. the ruling predates the Supreme Court decision in CIT v. Yokogawa India Ltd. (2017) 77 taxmann.com 41 (SC), where it was held that income exempt under Section 10A is to be excluded at the stage of computing total income, making such income effectively non-chargeable for that year. Thus, Wipro Ltd. cannot be applied to override the statutory and treaty language that limits credit to income subjected to Indian taxation.

Applying the principles of Yokogawa to Canon India's case for AY 2003-04:

- **The income from Japan was generated by the Section 10A eligible unit.**
- **In line with Yokogawa, such income is deducted at the initial stage of computing gross total income, meaning that it does not enter the taxable income base for that year.**
- **As a result, there is no Indian tax payable on that income.**
- **Under Article 23(2)(a) of the India-Japan DTAA, FTC can only be allowed as a deduction from the tax on the income and is capped at the amount of Indian tax attributable to the foreign income.**
- **Since the Indian tax attributable is nil, the allowable credit under the treaty is also nil.**

Thus, the binding precedent of the Hon'ble Supreme Court in Yokogawa decisively supports the Revenue's position that FTC cannot be granted when there is no Indian tax liability on the foreign-sourced income due to the Section 10A deduction.

Conclusion:

21. In essence, Foreign Tax Credit (FTC) can be claimed only to the extent of the actual Indian tax payable on the relevant foreign income under the India-Japan DTAA as well as domestic law. Where the Indian tax liability is nil-whether on account of overall losses or specific exemptions such as under section 10A-no FTC arises, and no refund of taxes paid abroad is permissible from the Indian tax authorities. This principle has been categorically affirmed in several judicial pronouncements, most notably the ITAT Mumbai Bench decision in Bank of India (AY 2012-13), which held that permitting FTC in a nil-tax scenario would amount to subsidising foreign treasuries from the Indian exchequer, a result wholly impermissible in law.

22. Fundamental treaty interpretation principles and academic commentary also confirm that FTC is a mechanism of credit and not a

refund. The relief is strictly confined to the Indian tax payable on the foreign income and cannot exceed such liability. International models such as the OECD and UN further underscore that the credit method is intended to mitigate double taxation, not to generate refunds of taxes discharged in source jurisdictions.
Accordingly, in light of the statutory provisions of section 90 of the Income-tax Act, 1961, the specific language and intent of Article 23 of the India-Japan DTAA, authoritative judicial precedents including Bank of India (ITAT Mumbai), and internationally accepted commentary under the OECD and UN models, it is clear that the assessee's claim for refund on account of FTC in the present year is legally unsustainable. The absence of any Indian tax liability leaves no scope for granting credit under either domestic law or treaty provisions. It is therefore respectfully prayed that the Hon'ble Tribunal may be pleased to uphold the disallowance of claim of refund on account of FTC and dismiss the appeal filed by the assessee."

9. The assessee opposed the written submissions filed by the assessee and placed on record its rebuttal dated 13.08.2025 which reiterates the submissions given earlier. The assessee reiterated that Mumbai Tribunal in case of ***Bank of India*** [2021] 125 taxmann.com 155 (Mumbai-Trib.) is non-applicable and relied on case laws below:

- M/s Sasken Technologies Limited -Vs. JCIT [2022] 140 taxmann.com 241 (Bangalore - Trib.)
- M/s Uniparts India Ltd. Vs. CIT (2018-TII-274-ITAT-DEL-INTL)
- DCIT Vs. Ramco Systems Ltd. (2023) 156 taxmann.com 640 (Chennai - Trib.)

10. The Assessee further submitted that the issue under consideration is no longer res integra, having already been adjudicated upon by the Hon'ble Jurisdictional Delhi High Court in the case of ***M/s HCL Comnet Systems and Services Limited*** (supra) as well as by non-jurisdictional High Court i.e., Hon'ble Karnataka High Court in ***Wipro Limited*** (supra).

11. We have heard the rival submissions and have perused the relevant material on record. The core issue for adjudication in the instant case is the allowability of Foreign Tax Credit (FTC) under Section 90/91 of the Income-tax Act, 1961, read with Article 23 of the India-Japan DTAA.

12. We find that the question whether the assessee is entitled to claim Foreign Tax Credit (FTC) in India for taxes withheld in Japan, even though the income was exempt under Section 10A or neutralized due to brought-forward losses, resulting in no Indian tax liability and thereby resulting into a refund, has been decided in favour of the assessee by the decision of the Hon'ble Delhi ITAT in the case of assessee itself [ITA No. 468/Del/2021], wherein the Hon'ble ITAT, relying on Karnataka High Court's decision in the case of ***Wipro Ltd. v. DCIT*** [2015] 62 taxmann.com 26 (Karnataka), allowed the appeal and held that the assessee is eligible for entire credit of foreign

taxes deducted in Japan, even if the taxability was nil consequent to the deduction under section 10A brought forward losses.

13. Whereas the Revenue relied on the statutory provisions of the Act, the express language of Article 23 of the India-Japan DTAA, and Mumbai ITAT's decision in the ***Bank of India*** ITA 869/Mum/2018 where the Revenue tried to distinguish the ***Wipro Case*** by stating that in the case of ***Wipro***, the taxpayer had substantial Indian tax liability on non-exempt income, and the FTC claimed was only a small part of the overall tax paid in India hence was in accordance with the requirement of Clause 2 of Article 23, and the credit was capped at the amount of Indian tax payable. The Revenue contended that in the instant case, as no tax was payable in India due to the operation of Section 10A and the set-off of brought-forward losses, hence, there was no Indian tax liability against which the foreign taxes withheld in Japan can be credited.

14. We find that while the Mumbai Tribunal in the ***Bank of India*** case grappled with the question of following a non-jurisdictional High Court being not binding judicial precedent, and arrived at a contrary decision, the assessee has referred to the decision of the Hon'ble High Court of Delhi in the case of ***M/s HCL Comnet Systems and Service Limited (***ITA 546 of

2022) which has agreed with the decision of Hon'ble Karnataka High Court in the ***Wipro Ltd*** case.

15. Now that a jurisdictional High Court decision in the case of ***M/s HCL Comnet Systems and Service Limited*** is before us, the question of following the binding judicial precedence or not, no longer exist. The question before the hon'ble Delhi High Court in ***HCL*** case (supra) and its decision is as under:

> ***"3. The appellant/revenue has proposed the following questions of law:***
>
> > ***"A. Whether on facts and in the circumstances of the case and also on the prevailing law, Hon'ble ITAT is justified in deleting the addition of Rs. 3,93,02,416/- made on account of disallowance of license fees paid to the DoT?***
> > ***B. Whether on facts and circumstances of the case and also on prevailing law, the Hon'ble ITAT was justified in holding the license fee paid by the assesses was properly deductible as revenue expenditure as against capital expenditure held by the Assessing officer?***
> > ***C. Whether on facts and circumstances of the case and also on prevailing law, the Hon'ble ITAT was justified in allowing the Foreign Tax Credit of Rs. 2,20,61,0271- by admitting the additional ground without giving any opportunity to the department?***
> > ***D. Whether on facts and circumstances of the case and also on prevailing law, the Hon'ble ITAT was justified in not appreciating that the claim was not made in the ITR and never raised before the AO and CIT(A)?***
> > ***E. Whether on facts and circumstances of the case and also on prevailing law, the Hon'ble ITAT was justified in holding that credit for tax paid in a country outside India in relation to the income eligible for deduction u/s 10A of the Act would be available u/s 90(1)(a) of the Act?"***

4. It is not disputed by Mr Shailendera Singh, learned senior standing counsel, who appears on behalf of the appellant/revenue, that proposed questions 'A' and 'B' do not emanate from the impugned order passed by the Tribunal. In any event, proposed questions 'A' and 'B' are covered by the judgment of a coordinate bench of this Court, dated 24.03.2021, passed in ITA 81/2021, concerning AY 2010-2011. Therefore, insofar as the proposed questions 'A' and 'B' are concerned, no substantial questions of law arise for our consideration.

5. As regards the remaining proposed questions, i.e., 'C', 'D', and 'E', it is evident that 'D' and 'E' are linked to the proposed question 'C'. According to the learned counsel for the respondent/assessee, the proposed questions 'C,' 'D', and 'E' are covered by the following judgments of the Karnataka High Court:

(i) Wipro Ltd vs DCIT: (2015) SCC OnLine Kar 9196.
(ii) PCIT vs Infosys Ltd: (2023) 147 taxmann.com 520 (Karnataka).
(iii) CGI Information Systems and Management Consultants (P) Ltd vs ITO: (2023) 455 ITR 270 (Kar).

6. We have perused the lead judgment of the Karnataka High Court in the Wipro Ltd. case. The facts which obtained, therein, are pari materia with the instant appeal.

7. <u>We are in respectful agreement with the view taken by the Karnataka High Court in Wipro Ltd. case.</u> The other two judgments referred to hereinabove, only follow the decision in the Wipro Ltd. case.

8. Therefore, according to us, no substantial question of law arises, insofar as proposed questions 'C', 'D', and 'E' are concerned.

9. We are, however, informed by the counsel for the respondent/assessee that an appeal has been preferred by the appellant/revenue with the Supreme Court, against the judgment rendered by the Karnataka High Court in the Wipro Ltd. case.

10. We are also informed that the Special Leave Petition i.e., SLP No. 8381/2021, preferred by the appellant/revenue on 25.05.2021, was admitted on 14.12.2021.

10.1 Given this position, it is made clear that insofar as proposed questions 'C', 'D', and E are concerned, the appellant/revenue will have the liberty to approach the court for reviving the instant appeal, in case it were to succeed in the aforementioned matter pending adjudication in the Supreme Court".

16. In the ***HCL Comnet*** case, the question 'C', 'D' and 'E', which are similar to the question in the impugned case, the hon'ble Delhi High Court has given a clear acceptance to the decision of Karnataka High Court in ***Wipro Ltd.*** , In view of the hon'ble Delhi High Court decision in ***HCL Comnet***, we hold that the issue under consideration is no longer res integra. We are of the considered view in light of the above judicial precedents, that the assessee be granted complete credit of taxes paid by it in Japan on export revenues from sale of software and not restricted owing to nil tax liability on account of business losses or 10A deduction under the Income Tax Act, 1961. The grounds 1 and its sub-grounds is allowed.

17. Ground no 2 is with regard to the claim of credit of TDS from Indian deductor of Rs 23,90,314/- is consequential in nature.

ITA No. 1038/DEL/2023 [A.Y. 2005-06]
[Revenue's Appeal]

18. The solitary substantive ground raised by the Revenue read as under:

> **"Whether Ld. CIT(A) has erred on the facts and circumstances of the case by allowing the credit of TDS deduction in Japan to assessee for the year in consideration solely placing reliance upon decision of ITAT in assessee's own case for A.Y. 2004-05 and the decision of Hon'ble Karnataka High Court in the case of Wipro Ltd both of which have been contested by revenue by filing further appeal before Hon'ble High Court and Hon'ble Supreme Court respectively."**

19. We have already decided the issue of allowability of the credit of TDS deduction in Japan to assessee for the year in AY 2003-04 above, relying upon decision of ITAT in assessee's own case for A.Y. 2004-05 and the decision of Hon'ble Karnataka High Court in the case of ***Wipro Ltd*** and the same having been accepted by the hon'ble Delhi High Court in ***HCL Comnet***. The facts being pari materia with facts of the Instant year, the decision for AY 2003-04 equally applies to the impugned year in consideration. The ground is therefore, dismissed.

CO No. 04/DEL/2025 [A.Y. 2005-06]
[Assessee]

20. There is delay of 578 days in filing the cross appeal. The reasons for delay appear to be plausible and the assessee is considered as having sufficient cause. The delay is therefore is condoned. The solitary ground raised by the assessee in the cross objection read as under:

> **"That on the facts and in the circumstances of the case and in law, the Respondent should be allowed interest u/s 244A of the Act on refund and while computing such interest, the foreign tax credit should be kept at par with the prepaid taxes and the Respondent is eligible for interest from first day of assessment year till date of grant of refund."**

21. We find that we have already allowed the credit of TDS deduction made in Japan to assessee for the year in consideration. The assessee is, in effect, now asking for interest u/s 244A on the TDS deduction made in Japan and relied on the decision of Hon'ble Bombay High Court in case of ***CIT v. Tech. Mahindra Limited*** [2016] 69 taxmann.com 402 (Bombay).

22. Facts in brief is that the assessee filed its original return of income on 31.10.2005 declaring an income of Rs. 10,17,88,599/-, however taxable income was NIL after setting off B/F losses under normal provisions of Act

and Tax of Rs. 14,08,332/- was paid on MAT u/s 115JB of the Act claiming Foreign Tax Credit of Rs. 14,08,332/-. The ITR was revised on 29.03.2007 declaring an income of Rs. 10,01,61,438/-, however taxable income was NIL after setting off B/F losses under normal provisions of Act and Tax of Rs. 1,02,768/- was paid on MAT u/s 115JB of the Act claiming Foreign Tax Credit of Rs. 1,02,768/-. The assessee has filed an application u/s 237 wherein it has claimed refund of the entire amount withheld in Japan, basis the India Japan Double Taxation Avoidance Agreement (DTAA) read with section 90(2) of the Income Tax Act, 1961 on account of total taxes of Rs. 4,47,81,650/- withheld in Japan, out of which the assessee claimed credit of Rs. 1,02,768 only in its revised return of income.

23. We further note that the grant of interest u/s 244A, during the impugned assessment year 2005-06, is governed by the Direct Tax Laws (Amendment) Act 1987 w.e.f 01.04.1989. The provisions of the new section 244A are as follows:

> ***(i) Sub-section (1) provides that where in pursuance of any order passed under this Act refund of any amount becomes due to the assessee then-***
>
> ***(a) if the refund is out of <u>any advance tax paid</u> or <u>tax deducted at source</u> during financial year immediately preceding the assessment year, interest shall be payable for the period starting from the 1st April of the***

assessment year and ending on the date of grant of the refund. No interest shall, however, be payable if the amount of refund is less than 10% of the tax determined on regular assessment.

(b) if the refund is out of any tax, other than advance tax or tax deducted a source, or penalty, interest shall be payable for the period starting from the date of payment of such tax or penalty and ending on the date of the grant or the refund.

****

By the Amending Act, 1989, reference to "tax collected at source" section 206C was inserted in the Income-tax Act. Thus we find that interest u/s 244A of the Act is available to the assessee for Advance Tax paid; Tax Deducted at Source; Tax collected at source u/s 206C; tax or penalty from the date of payment of such tax or penalty.

24. In the instant case that the assessee has determined a tax payable of Rs 1,02,768/- and has claimed Foreign Tax Credit of Rs 1,02,768/-. We find that there is no further tax paid; no further advance tax has been paid to the Indian exchequer; no further TDS has been deducted by Indian deductor; no further tax has been collected at source u/s 206C nor any tax or penalty has been paid by the assessee in India. The assessee has now got the Foreign Tax Credit relief u/s 90 of the Act of Rs 4,47,81,650/-.

25. In the above factual matrix, we examined the decision of Hon'ble Bombay High Court in case of ***CIT v. Tech. Mahindra Limited*** (supra) which held as under:

> ***"8. The submission on behalf of the Revenue that the impugned order of the Tribunal results in the State paying interest to the respondent assessee in respect of taxes paid to foreign countries and, therefore, not sustainable, is beyond our comprehension. The interest which is being paid in terms of the order of the CIT (Appeals) and the Tribunal is in respect of the advance tax and TDS which has been paid by the respondent assessee in India to the Indian State and the same is found to be in excess after giving credit in terms of the DTAA. The other contentions raised by the Revenue is exactly the direction of the Commissioner of Income Tax (Appeals) and the Tribunal i.e. interest is to be paid on refund of amounts paid as advance tax or TDS.***
>
> ***9. We find that both the Commissioner of Income Tax (Appeals) and the Tribunal have while examining the claim for interest on refund granted, considered the fact that the relief under Section 90 of the Act is available in respect of the income tax which is payable both in India as well as in the other Countries with which India has DTAA. Therefore, relief under Section 90 of the Act is to be allowed while computing the tax liability in India by virtue of credit being given to the extent that tax has been paid abroad. Therefore, the tax payable is to be computed on the income to be assessed. Thereafter the credit which is available to the assessee in view of DTAA is to be taken into account and if there is any excess which the assessee has paid into the Indian Treasury, then, he is entitled to the refund of the same which would also carry interest in terms of Section 244A of the Act.***
> ***10. Thus, the question as framed does not arise out of the impugned order of the Tribunal. We are unable to understand what grievance could the Revenue have with the impugned order. Thus, the proposed question does not give rise to any substantial question of law.***
> ***11. Accordingly, the appeal is dismissed. No order as to costs".***
>
> (emphasis supplied by us)

From the reading of the aforesaid decision, it is abundantly clear that the assessee is entitled to interest u/s 244A on refund on account of excess tax paid into the Indian Exchequer. The hon'ble High Court has clearly held in

paragraph 8 and 9 that in the case before them, the interest which is being paid, was **in respect of the advance tax and TDS which has been paid by the respondent assessee in India to the Indian State and the same is found to be in excess after giving credit in terms of the DTAA.** The fact in the instant case shows that the assessee has not paid any tax. It has merely determined tax payable of Rs 1,02,768/- on MAT u/s 115JB and has offset the same with Foreign Tax Credit of Rs 1,02,768/-. There is no excess Advance tax/TDS/TCS/tax paid to the Indian exchequer, after taking into account the Foreign Tax Credit. We are of the considered view therefore, that no interest u/s 244A of the Act is available to the assessee on the Foreign Tax Credit in the instant year. The CO is dismissed.

26. In the result**, t**o sum up and conclude:

(i) Appeal of the Assessee in ITA No. 585/DEL/2021 is allowed.
(ii) Appeal of the Revenue in ITA No. 1038/DEL/2023 is dismissed.
(iii) Cross Objection of the assessee in CO No. 4/DEL/2025 is dismissed.

The order is pronounced in the open court on 10.11.2025.

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

Dated: 10th NOVEMBER, 2025.

VL/

Copy forwarded to:

1. Assessee
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*	