

India; United States

Receipts from Liaison Programme, Consortium Services Not Taxable, Research Sponsorship Fees Taxable, Indian Court Says

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The Mumbai Income Tax Appellate Tribunal (ITAT), in the case of *M/s. Massachusetts Institute of Technology v. Deputy Commissioner of Income Tax* (ITA. Nos 607/2022), held that receipts from a liaison programme and from consortium services were not taxable in India. However, research sponsorship fees were taxable in India in terms of the contractual agreement between the parties.

(a) Facts. The taxpayer, a tax resident of the United States, is an educational institution providing knowledge and related services to students as well as corporations. During the year in question, the taxpayer received fees from (i) industrial liaison programme (ILP) membership; (ii) sponsorship assignment for research; and (iii) co-ordination/consortium membership, which were claimed as non-taxable under the [India - United States Income Tax Treaty \(1989\)](#). However, the tax authorities considered these fees taxable as fees for included services (FIS) under article 12(4) of the treaty.

(b) Issue. The ITAT considered the issue of whether the fees earned by the taxpayer were in the nature of FIS and accordingly, taxable in India.

(c) Decision. The ITAT ruled partially in favour of the taxpayer and observed that the following fees/receipts were not in the nature of FIS for the reasons set out below.

Receipts from industrial liaison programme

- The taxpayer merely introduced the corporations to its faculty, showcasing the research projects undertaken by them, to enable the corporations to see if any of the research could be leveraged by them in their own strategic plan.
- The taxpayer neither rendered any technical services to the corporations nor made available any technical knowledge, experience or skill. Rather, it transferred purely factual information with respect to various research projects to the corporations.

Receipts from coordination/consortium membership

- The taxpayer merely acted as a host wherein it was responsible to help manage the overall direction of the research performed by the consortium members and help to provide access and dissemination of the consortium research to its members.
- The taxpayer did not undertake any research nor did it describe any method or process involved in carrying out such research; it merely acted as a coordinator between all of the consortium members and provided administrative support.

Sponsorship receipts

Separately, the ITAT also ruled in favour of the tax authorities that sponsorship receipts were in the nature of fees for technical services (FTS)/FIS under the domestic tax law and the treaty for the following reasons:

- The taxpayer undertook specific research for the corporations (corporate sponsors), and the technology and knowledge from the research was provided in the form of research reports to the corporations that may apply the same and derive an enduring benefit.
- As per the intellectual property (IP) clause in the agreement, the corporate sponsor received the IP rights (or joint IP rights in some cases), which indicates that technical knowledge was made available to the corporations.

The full decision, pronounced by the ITAT on 31 July 2023, is available [here](#) (as a pdf and in English).

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