

India; United States

High Court: Fees Received by US Entity for Registration of Domain Names Not Royalty

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The Delhi High Court (HC), in the case of *GoDaddy.com LLC vs. ACIT (ITA NO.891/2018)*, has ruled that fees received by the US taxpayer for registration of domain names of third parties (its customers) cannot be treated as royalty.

(a) Facts. The taxpayer, a tax resident of the United States and an accredited registrar for the Internet Corporation for Assigned Names and Numbers (ICANN), provided domain name registration, web designing and web hosting services to its customers.

The tax authority regarded the taxpayer's income from domain name registration services as fees for technical services. The Dispute Resolution Panel agreed with the tax authority. The Delhi bench of the Income-tax Appellate Tribunal (ITAT) subsequently upheld that the said income is royalty, albeit for the right to use or use of a trademark.

(b) Issue. The HC examined whether income received for providing domain name registration services was royalty under section 9(1)(vi) of the Income Tax Act, 1961.

(c) Decision. The HC ruled in favour of the taxpayer, stating that the said fee cannot be treated as royalty. It overturned the decision of the ITAT, which ruled that services rendered for domain name registration was tantamount to services rendered in connection with the use of intangible property similar to a trademark (see [India - Income from Domain Name Registration Services Held to be Taxable Royalties](#)).

The terms of the agreement with ICANN clearly established that the taxpayer provided domain registration services to its customers (under a separate agreement) and did not have any proprietorship rights in the domain name. Thus, it was not the domain name's owner and it did not confer the right to use or transfer the right to use the domain name to another person/entity.

The decision was pronounced by the HC on 11 December 2023.

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