

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.980/DEL/2025
[Assessment Year: 2022-23]**

CPPGROUP Services Limited, 6, East Parade Leeds, LS12AD United Kingdom	Vs	Assistant Commissioner of Income Tax, Circle-1(2)(1), Civic Centre, Minto Road, Delhi-110002
PAN-AAHCC0483D		
Assessee		Revenue

Assessee by	Shri Ajay Vohra, Sr. Adv. Shri Sujay Paul, CA, Shri Aayush Khandelwal, CA & Shri Janisar Akhtar, CA
Revenue by	Shri M.S. Nethrapal, CIT-DR

Date of Hearing	07.08.2025
Date of Pronouncement	04.11.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of the Assessing Officer dated 23.12.2024 passed u/s 143(3)/144C(13) of the Income Tax Act, 1961 (hereinafter 'the Act') arising out of directions of Dispute Resolution Panel (hereinafter referred to as 'DRP') dated 26.11.2024 pertaining to Assessment Year 2022-23.

2. The grounds of appeal are as under:-

1. *On the facts and circumstances of the case and in law, the Ld. AO on direction of the Hon'ble DRP have erred in considering the sum of INR 20,81,25,275 earned by the Appellant for rendering IT support services to CPP Assistance Services Private Limited (CPP India) as 'Fee for Technical Services' (FTS) under the Article 13 of the India-UK Double Tax Avoidance Agreement (DTAA) and hence liable to tax in India.*
2. *On facts and circumstances of the case and in law, the Ld. AO has erred in considering the sum of INR 89,41,248 earned by the Company for rendering non-IT support services to CPP India as FTS under the Article 13 of the India-UK DTAA and hence liable to tax in India.*
3. *Without prejudice, the Ld. AO has grossly erred in applying an incorrect tax rate of 15% under Article 13 of the India-UK DTAA, instead of the applicable beneficial tax rate of 10.92% under the Act for AY 2022-23, on the assessed income of the appellant, which also deviates from the draft assessment order issued by the Ld. AO.*
4. *Without prejudice, the Ld. AO has erred in not following the direction of the Hon'ble DRP and failing to grant credit of equalization levy paid @ 2% in the computation sheet issued along-with the final assessment order.*
5. *Without prejudice, the Ld. AO has erred in levying interest under section 234B of the Act in the computation sheet issued along-with the final assessment order.*

3. The assessee is a company incorporated and registered in England and Wales. The registered address of the Company is 6, East Parade, Leeds, LS1 2AD, United Kingdom. It is a part of the CPP Group. The Company is engaged in the business of providing a various gamut of services (such as IT services, Human Resources, Business Development, Marketing, etc.) to its group companies. In terms of its activities in India during the captioned year, the Company rendered certain services to its associate enterprise ('AE'),

CPP Assistance Services Private Limited ('CPP India'), which have been briefly discussed by the Assessing Officer as below:

i. IT support services:

The IT support services rendered by CPP(UK) are primarily for maintaining and operating appropriate IT infrastructure mainly consisting of a UK based core business application of the CPP group. Further, the Assessing Officer noted that CPP(UK) ensures a stable IT service provision throughout the year which meets the requirements of the CP Group entities located across the globe. The IT Support services as noted by the Assessing Officer provided by the assessee includes system maintenance and development services, advising on information security issues, assisting with IT operations, data management, etc. and the brief description of the services are noted in the assessment order as below:

- a) Handling data and documentation of processes and ensuring safe data transmission in line with the group standards of data protection;
- b) Serving as first point of contact for CPP India's technology issues and provide management for all IT related incidents;
- c) Assistance with business analysis, project management, managing communication between different user groups supporting the Indian

operations, maintenance of database, data management, MIS generation, etc.; and

d) Provision of a technology roadmap to deliver the commercial strategy, developing architectural support for the growing and changing needs of the business and the development of technology platforms for the customer product portfolio. For rendering these services, the Company has earned INR 20,81,25,272 during the captioned year at a markup of 5% on cost incurred to render such services.

ii. Non-IT Support services: During the year, the Company has also rendered certain non-IT based services in the area of human resources, finance, legal, compliance and secretarial services, internal audit etc. to CPP India. For rendering these services, the Company has earned INR 89,41,248 during the captioned year at a markup of 5% on cost incurred to render such services.

iii. IT development services of development of new IT platform for CPP India: During the year, the assessee has provided IT development services to CPP India, for which it has earned INR 5,32,70,976. These services are rendered for the purposes of developing a dedicated IT platform for CPP India's local business of providing assistance services to customers in India. Through this, CPP India will have independent and appropriate IT infrastructure for

its local business and at the same time, bringing operational efficiencies.

3.1 During the A.Y. 2022-23 the assessee company had received following amounts from CPP India towards IT Support services and IT support cost for Indian Project as given below:-

Name of Revenue(3)	(1) Amount of Revenue	(2) Income offered to tax in India out of (2)	Reasons for not offering income to tax(4)
IT support services	INR 20,81,25,272/-	NIL* *Equalization Levy paid @2% amounting to INR 41,41,875/- Please refer below to our reply to point 19 of Questionnaire	As discussed later in the order
Non-IT support Services	INR 89,41,248	Nil	-do-
IT development services of development of new IT platform for CPP India	INR 5,32,70,976	INR 5,32,70,976	N.A>

3.2. In respect of above payments, the assessee had offered the item at Sr. No.3 above amounting to Rs.5,32,70,976/- for taxation and in the present appeal disputed is in respect of Sr. No.1 and 2 as above. At the outset, the Id. AR submitted that the identical item as above at Sr. No.1 amounting to Rs.5,46,31,543/- for availing IT Support System was disallowed by the Assessing Officer u/s 40(a)(ia) of the Act on account of non-deduction of TDS on the same in Assessment Year 2017-18 in the case

of CPP (India) and when the matter travelled to the Tribunal, the Co-ordinate Bench of the Tribunal in the case of CPP (India) in ITA No.116/Del/2022, vide order dated 22.12.2022 held that 'make available' of the India-UK DTAA Treaty clause was not satisfied and the above amount does not qualify as FTS as held by the Assessing Officer. The Ld. AR further submitted the said order was also followed by the Co-ordinate Bench in the case of CPP(India) for AY 2018-19 and 2020-21. Relying upon the above decisions, the ld. AR submitted that since in the case of its AE, CPP (India), similar amount paid by CPP(India) to CPP(UK) was held not to be taxable and the disallowance of the said amount Rs.5,46,31,543/- which was disallowed by the Assessing Officer for non-deduction of TDS u/s 197 of the Act as held to be FTS for AY 2017-18 was not found sustainable by the Tribunal and therefore by the same logic and on the basis of the said orders, the amount of Rs.20,81,25,272/- in the case of the assessee for the present assessment year cannot be held as taxable as FTS by the Assessing Officer and confirmed by the Dispute Resolution Panel.

4. We have heard both the parties and perused the material available on record. The above cited order dated 22.12.2022 of the Tribunal has been perused and the Co-ordinate Bench of the Tribunal in the case of CPP (India) company for AY 2017-18 in ITA No.116/Del/2022 and the immediate order in ITA No.2021 & 2019/Del/2024, dated 07.11.2024 in the case of the CPP(India) in ITA No.2021 & 2019/Del/2024 for Assessment Years 2018-19 and 2020-21, had deleted similar additions made by the AO. The relevant order dated 07.11.2024 for AY 2018-19 and 2020-21 of the Tribunal is reproduced as under:-

“These appeals are preferred by the Revenue against the orders dated 12.02.2024 and 22.02.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred as Ld. First Appellate Authority or in short Ld. ‘FAA’) in Appeal Nos.NFAC/2017-18/10019957 and NFAC/2019-20/10181022 arising out of the appeal before it against the orders dated 05.05.2021 and 26.09.2022 passed u/s 143(3) r.w.s. 144B and u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’), respectively, by the DCIT, Circle 4 (2), New Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the record.

3. The ld. Sr. Counsel, Shri Ajay Vohra pointed out that the issues raised in the appeals of the Revenue have already been considered in AY 2017-18 by the coordinate Bench, vide ITA No.116/Del/2022, order dated 22.12.2022. The ld. DR could not dispute this submission.

4. After going through the impugned orders and the grounds raised by the Revenue, we find that the ld. DRP had merely followed the AY 2017-18 findings. The issue primarily involved is if the payment which were made by the assessee to the tune of Rs.14,56,35,000/- (A.Y. 2018-19) and Rs.14,71,82,129/- (A.Y. 2020-21) to its non-resident group company were as fee for technical services as per Article 13 of the India-UK DTAA. We find that in AY 2017-18, for the same set of services the coordinate Bench had examined the nature of services availed by the assessee company and found that the ‘make available’ criteria was not fulfilled. The coordinate Bench had examined the agreement between the CPP group, UK (the supplier) and the CPP Assistance Services Pvt. Ltd. (the assessee) and in the following observations in para 32-34, it was held that the ‘make available test’ is not satisfied:-

“32. Whereas the facts of the case in hand show that the assessee does not gain any technical knowledge, experience or skill as it is not involved in the process that service provider is following while rendering the services. The IT support services are rendered by CPP UK from UK itself and these services are rendered for the entire group and not just for CPP India.

33. The agreement between CPP group services and the assessee is perpetual and such services are provided by CPP group on recurring basis to the assessee and if the technical knowledge, skill etc. is being made available to the assessee, then there would be no need for the assessee to take recourse to the CPP UK for these services.

34. In our considered opinion, IT support services do not satisfy the make available test as no technical know-how, skill etc were transferred to the assessee. Considering the facts of the case in totality, in light of judicial decisions discussed hereinabove, we direct the Assessing Officer to delete the disallowance of Rs. 5,46,31,534/-“

5. We find no reason to differ on any question of fact or law as examined by the CIT(A), while following the decision of the coordinate Bench in the appellant's own case for AY 2017-18 (supra). The grounds of the Revenue have no substance.

6. In the result, the appeal of the Revenue is dismissed.”

4.1. Further, on perusal of the order dated 22.12.2022 in the case of the CPP(India) for AY 2017-18 on page no.7 of the order in para no.20, it is seen that the Tribunal considered the agreement between CPP Group UK (supplier/UK) and CPP-assessee (Customer/India) dated 11.07.2017 in arriving at the above decision. We are conscious of the fact that the agreement dated 11.07.2017 is applicable for AY 2022-23 as per the copy of agreement filed by the assessee at page no.71 to 87 of the paper book. The Assessing Officer in para no.6.24 at page no.31 and 32 of its order has brought as according to the AO, the distinguishing facts of the case during the year from that of the Assessment Years 2017-18 and, therefore, according to the Assessing Officer, the said decision of the Tribunal for AY 2017-18 was not applicable in the present year. In this regard, the Assessing Officer recorded that the crucial fact of IT-development services was not present before Tribunal in AY 2017-18. Accordingly, the Assessing Officer stated that thus there was a change in facts in the present Assessment Year from the facts of the said assessment year i.e 2017-18. Further, the Assessing Officer observed that the Tribunal had held that because the service recipient CPP India doesn't become independently capable to perform the services and as these services are being provided

year on year so the services are not being made available, but from the facts as brought out in the draft assessment order for the present assessment year i.e. AY 2022-23 it was clear that CPP India has been enabled to perform these services on its own and in fact with the development of the new IT system, CPP India will perform these services on its own. The Assessing Officer further stated that there will no more the need for the provision of these services by the assessee and this crucial fact indicates that the criteria for 'make available' was present in the case of these services to CPP (India).

4.2. The Assessing Officer noted that along with the IT-support services the assessee is also providing IT-development services to the CPP India during the year. The Assessing Officer observed that the purpose of this IT development was to create an independent platform for CPP India where it can use the platform independently for storing and processing data related to its business and can manage its IT functions independently of its India business. The Assessing Officer also took note of the fact that the assessee stated that the above purpose of the IT development services has been captured by CPP India in its TP study. The Assessing Officer further noted that the same employees who are engaged in IT Support Services are also in the IT Development Services being provided by the assessee. Further, the Assessing Officer noted that the IT services provided by the assessee and the IT development services (which the assessee has offered to be as Fee for Technical services) are similar and integrated to the main business of the Indian AE as the Indian AE has aggregated these transactions in the TP report. According to the Assessing Officer, the

functional, asset and risk analysis of the services are similar and essentially these are the same services for which the platform was earlier based in the UK and now a new platform is being developed in India by CPPGSL for the use of CPP India.

4.3. However, the Id. DRP after taking note of the fact about the difference in the services provided under the head 'IT Support Services' and 'IT Development Services' agreed with the submission of the assessee and the differences as pointed out by the assessee is reproduced as under:-

S. No.	IT Support Services	IT Development Services
1.	Receiving of IT Support Services include services pertaining to IT Helpdesk, Custody of data, data retrieval through MIS reports etc.	Role of CPP in IT Development Services is that of developing in new IT platform to CPP India to comply with the regulatory requirement of housing business data within India
2.	The old team of IT Support Services was there	Entirely new IT team was hired by CPP India for participating in the development project and there was no overlap between employees between these two services.

4.4. In this regard, the relevant finding of the Ld. DRP as reproduced in the 4.3.5 of its directions are reproduced as under:-

"4.3.5 In view of the above discussion, the Panel does not find any infirmity in the explanation put forth by the Ld. AR of the assessee. In view of the above, the Panel does not find any infirmity in the DAO and upholds the approach of the AO to tax the receipts from IT Support Service as FTS but at the same time but at the same time does not agree with the AO's finding that the IT Support Services and IT Development Services were

similar in nature in light of the discussion in para 4.3.4. Hence, the Panel directs the AO to incorporate the findings of the Panel regarding the dis-similar nature of IT Support Services and IT Development Services in the body of the order and pass a speaking order in this regard. Ground Number 1 is accordingly disposed of.”

4.5. Thus, it is seen that the Assessing Officer had considered both the services i.e. ‘IT Services’ and ‘IT Development Services’ as similar and integrated in nature and in view of this fact held that the assessee by starting the IT Development Services had made available the technical services to CPP (India), whereas, the Id. DRP even though agreed with the view of the Assessing Officer that the amount of Rs.20,81,25,275/- received on account of ‘IT Services’ was taxable in the hands of the assessee on account of FTS but did not agree with the view of the Assessing Officer that said services were similar in nature. The above factual finding of the Id. DRP that the two services i.e. ‘IT Support Services’ and ‘IT Development Services’ were not similar in nature has not been contradicted by any contrary evidence by the Id. CIT-DR. Therefore, this distinguishing fact as taken by the Assessing Officer does not help the case of the Revenue. Moreover, no tangible or reliable evidence has been brought on record by the Assessing Officer to show that CPP India has been enabled to perform the ‘IT Services’ on its own. Further, we also note that the agreement between CPP (India) and the assessee is perpetual and such services are provided by CPP (UK) on recurring basis to the assessee and if the technical knowledge, skill etc. is being made available to the CPP(India), then there would be no need for the assessee to take recourse to the CPP UK for these services. Therefore, the facts in the present case are covered by the above decision of the Tribunal in the case of CPP(India) for AY 2017-18 and

further of the Co-ordinate Bench of the Tribunal in the case of CPP(India) company for AY 2018-19 and 2020-21, and following the same, we are of the considered view that the amount of Rs.20,81,25,272/- received by the assessee company cannot be taxed as 'FTS/FIS' under the provisions of Act as well as DTAA and therefore the said amount of Rs.20,81,25,272/- is deleted. Accordingly, ground no.1 of the assessee is allowed.

4.6. Further, the amount received by the assessee on account of 'Non-IT support service' amounting to Rs.89,41,248/- has also been carefully perused. The Assessing Officer has detailed about the nature of service provided by the assessee company to CPP (India) in para no.7.1 and page nos.36 to 38 of his order. The assessee explained about the services in para no.7 of the order, which is reproduced as under:-

"7. With regard to the non-IT services being provided by the assessee CPP GSL to its AE the submission of the assessee are as follows:

Taxability of non-IT services

At the outset, the assessee wishes to briefly reiterate the background of the non-IT services rendered by it during the captioned year. These non-IT based services were in the area of human resources, finance, legal, compliance and secretarial services, internal audit etc. and were rendered to the group entities, including CPP India. It is also submitted to your goodself that these services are not highly professional but routine services that are rendered at a group level and are fundamental to the working of a multi-national group. This ensures seamless coordination, resource optimization, oversight and standardization of processes, enabling the organization to leverage economies of scale and maintain consistency in operations, compliance with group guidelines and governance framework ultimately enhancing competitiveness on a global scale."

4.7. According to the Assessing Officer as noted in para 7.2 that the assessee company is providing a host of Intra Group Services which

includes services towards human resources, corporate and management services, business development, product support, legal compliance, finance services and tax services etc. to Indian entity on a long-term basis so that it can carry out the business functions in a more efficient manner. The Assessing Officer noted that these services include assistance and guidance, creation of long-term plans and visions of the company and it helps in formulating strategy and implementing plans for future development and path of these services and these are in nature of consultancy and guidance to the employees of the AE. The Assessing Officer further noted that this guidance and consultancy leads to training of the employees of the AE to understand the business, the market and the direction that is to be taken and further various reports, plans and vision documents are provided by the assessee to the AE during these services (which the Assessing Officer noted that the same were not furnished to its office) which make available this business insight to the employees of the AE, enabling them to act towards developing the business independent of the assessee. The Assessing Officer further noted that further from the description training, assistance and guidance are an integral part of all the services that are being provided by the assessee to the AE and thus, these services are being made available to the assessee through this training and education which provide know-how, experience and skill in managing the business of the AE.

4.8. Further, the Assessing Officer states that the services provided by the assessee requires a high degree of human intervention, requiring closer co-ordination between the employees of the assessee and its AE and

the assistance, guidance and support require regular discussion and close co-ordination and thus their meetings etc which are embedded in the scope of the services 'make available' technical knowledge from the assessee to its AE.

4.9. Further, the Assessing Officer in para 7.5 of his order stated that the assessee did not provide the communication and the deliverables generated in the course of its business and for other reasons as stated in the para observed that the onus to prove that the revenue received by the assessee is not in the form of FTS which 'makes available technical knowledge, experience, skill, know-how, or processes, or consist of the development and transfer of a technical plan or technical design' is on the assessee itself which it has failed to prove so.

4.10. Further, the Assessing Officer in para 7.6 has given the reasoning as to how the services provided by the assessee under this head also mentions to 'make available' to the assessee and the relevant finding is reproduced as under:-

"7.6. It is observed that the services provided by the assessee is on a long term basis to the Indian AE and in all these broad categories of services they will require services from the assessee company. It is clear that Indian entities will be receiving Emails/instructions from the assessee to carry out implementation of the services in their Indian business. Even if technical personnel of the assessee may not be visiting India generally but the quantum of these services are huge, which shows that the Indian entity through their Indian employees will be absorbing and utilizing these technical knowledge, experience and skill received through instructions/emails, etc.in its business operation. Thus, these services are 'made available' also."

4.11. Further the Assessing Officer noted the difference between the concept of 'make available' in technical services and consultancy services

and observed that it may not be equally ascertainable in case of 'managerial services' and/or 'consultancy services'.

4.12. Further, the Assessing Officer relied upon various case laws in support of the concept of 'make available' in respect of consultancy services, wherein, it was not a pre-requisite for applicability of 'make available' clause that the right to continue the practice put into effect and adopted under the service agreement on its expiry should be conveyed specifically.

4.13. In view of these facts, the Assessing Officer held that the amount of Rs.89,41,248/- received by the assessee towards Non-IT Services was taxable as FTS.

4.14. However, the Dispute Resolution Panel on the application filed by the assessee in para no.5.3.1(b) on page no.22 held that the panel was of the opinion that the receipts for 'Non-IT Services' cannot be construed as FTS specially in absence of evidence, the Assessing Officer seeks to rely upon, in respect of training, vision document, etc. The Assessing Officer after analyzing the facts stated by the Assessing Officer and on perusal of the agreement observed that there is no mention of training in the agreement anywhere and the Assessing Officer had put this insertion in the draft assessment order without substantiating it with any evidence or record. The Id. Dispute Resolution Panel also held that there was nothing to establish that the service mentioned in the agreement were being made available to its AE. The Id. Dispute Resolution Panel also held that the argument of the AO regarding services of corporate management, legal,

branding etc. involving professional knowledge that is passed from CPP(UK) to CPP India involves transferring the professional knowledge through discussion and close coordination, is misplaced and misconstrued. The Id. Dispute Resolution Panel also noted that it was an argument which was stretched too far and leads to absurdity. The Id. Dispute Resolution Panel noted that for instance, it was akin to saying that if a person seeks professional service from any professional for fund management/portfolio management would amount to that person making available professional knowledge to the said person. The Id. Dispute Resolution Panel observed that apparently, there was no transfer of any technical knowledge, experience, skill, knowhow or process that would enable the AE to use them. In view of these discussions, the Id. Dispute Resolution Panel held that the Panel is of the opinion that the receipts for Non- IT Services cannot be construed as FTS specially in the absence of evidence the AO seeks to rely upon, in respect of training, vision document etc. However, the Id. Dispute Resolution Panel noting that the Assessing Officer had not examined the full facts in this case directed the Assessing Officer to verify the facts with a direction to delete the said addition if not found to be backed by the facts.

4.15. The Assessing Officer re-verified the facts as per the discussion in para no.15.3 to 15.5 on page no.79 to 83 of his order and inter-alia observed that as per the agreement, the services rendered were in nature of consultancy and guidance to the employees of the AE and this guidance and consultancy leads to training of the employees of the AE to understand the business, the market and the direction that is to be taken. The

Assessing Officer further held that this guidance of the consultancy enables the employees of India AE to implement the knowledge received and hence, it clearly satisfied the 'make available' clause and is taxable as FTS as per DTAA and Income Tax Act. Considering the facts and circumstances and the position of law, and as has been established above regarding the similarity of the definition of FTS as per the Act and the India-UK DTAA, the Assessing Officer held that the services provided by the assessee were to be considered as having been 'made available' to the recipient of services. Accordingly, the Assessing Officer held that thus, the necessary ingredient for application of Article 12(4)(c) was satisfied and, therefore, the receipts received by the assessee from its Indian AE are in the nature of consideration received for FTS/FIS as per the Act and the Treaty and taxed the amount of Rs.89,41,248/-.

5. We have carefully perused the above finding of the Assessing Officer in the final assessment order and we are of the considered view that no tangible finding has been brought in the final assessment order to even indicate that as per the said agreement and by rendering of the services by the assessee to its AE UK(India) to 'make available' clause has been satisfied. The Assessing Officer in view of the directions of the Ld. DRP has not brought any evidence to negate the finding of the ld. Dispute Resolution Panel, which observed that apparently, there was no transfer of any technical knowledge, experience, skill, knowhow or process that would enable the AE to use them and thus, the 'make available' clause was satisfied in respect of the aforesaid payment of Rs.89,41,248/- received by the assessee company. Therefore, following the reasoning of the Tribunal

in the case of the CPP(India) for Assessment Years 2017-18, 2018-19 and 2020-21 as referred above, we are satisfied that amount of Rs.89,41,248/- added as FTS on account of Non-IT services by the Assessing Officer is not sustainable and the same is deleted. Accordingly ground no. 2 of the appeal is allowed.

6. Ground nos. 3, 4 and 5 of the appeal have become academic and the same are not adjudicated.

7. In the result, the appeal of the assessee is party allowed.

Order pronounced in the open court on 04th November, 2025.

Sd/-
[VIKAS AWASTHY]
JUDICIAL MEMBER

Dated 04.11.2025.

Shekhar

Copy forwarded to:

1. Assessee
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi