



DEL ITAT: Assessment Completed Under ‘E Proceedings’ But Signed Manually, Violative Of CBDT Instruction; Digital Signature Mandatory

Facts of the Case

Outsystems Singapore Pte. Ltd., a tax resident of Singapore, was assessed for AY 2022-23 u/s 143(3) read with section 144C(13) of the Income Tax Act, 1961 (the ‘Act’). The assessment proceedings were conducted through the e-Proceedings facility. The Assessing Officer treated receipts of Rs. 32.52 crore from licensing of software and services as Fees for Technical Services (‘FTS’) under the India–Singapore DTAA. The Dispute Resolution Panel (‘DRP’) upheld the addition, and the AO passed the final assessment order.

The assessee challenged the order before the ITAT on the ground that, although the assessment was completed under e-Proceedings, the final assessment order was signed manually instead of being digitally signed, contrary to CBDT Instruction No. 01/2018 dated 12.02.2018.

Contentions of the Assessee

The assessee contended that CBDT Instruction No. 01/2018 mandatorily requires all orders, notices, and communications issued through e-Proceedings to be digitally signed by the Assessing Officer. Since the impugned assessment order was signed manually, it suffered from an incurable defect and was invalid in law.

On merits, the assessee argued that it merely granted a limited, non-exclusive, non-transferable license to use standard software, without transferring any copyright or imparting specialized knowledge. Therefore, the receipts could not be characterised as FTS under the India–Singapore DTAA, which contains a “make available” clause. Reliance was placed on the Supreme Court decision in Engineering Analysis Centre of Excellence (P.) Ltd.[TS-106-SC-2021]

Contentions of the Revenue

The Revenue defended the validity of the assessment order and submitted that the manual signing was necessitated due to administrative and technical constraints, including time barring limitations and non-closure of accounting by CPC. Reliance was placed on the decision of the Cochin ITAT in Mytheenkunju Muhammed Kunju Kandathil Jewellers, contending that manual signing does not invalidate the assessment where digital signing was not feasible.

On merits, the Revenue supported the findings of the AO and DRP in treating the software licence fees as FTS.

Observations and Ruling of the Hon’ble ITAT

The Delhi ITAT observed that CBDT Instruction No. 01/2018 clearly mandates that all orders issued through the e-Proceedings facility must be digitally signed, and no exception has been provided under the Instruction. The Revenue was unable to produce any notification or instruction carving out such an exception.

Relying on Supreme Court judgments in Chandra Kishore Jha v. Mahavir Prasad and Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh, the Tribunal held that when a statute or binding instruction prescribes a particular procedure, it must be followed strictly. Any deviation renders the action invalid.

Accordingly, the Tribunal held that since the assessment was completed under e-Proceedings but signed manually, the assessment order suffered from an incurable defect and was liable to be quashed.



On merits as well, the ITAT held that the receipts from licensing of standard software could not be treated as FTS, as no specialised knowledge was made available to the end users. The issue was squarely covered by the Supreme Court decision in Engineering Analysis Centre of Excellence (P.) Ltd. The appeal of the assessee was allowed.

Citation

Outsystems Singapore Pte. Ltd. [TS-1668-ITAT-2025(DEL)]

Our Comments

This ruling reinforces the binding nature of CBDT Instructions governing e-Proceedings. Once an assessment is conducted electronically, digital signing of the assessment order is mandatory, and administrative or technical difficulties cannot cure the defect.

The decision has far-reaching implications, as any manually signed assessment order passed under e-Proceedings may be rendered invalid if challenged. It underscores that procedural safeguards in faceless and electronic assessments are not mere formalities but jurisdictional requirements.

Additionally, the Tribunal's reiteration of the Engineering Analysis principle once again provides clarity on the taxability of software licence receipts, especially under DTAA's containing a "make available" clause.