

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'D' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.645/Mds/2017

निर्धारण वर्ष / Assessment Year : 2013-14

M/s Intelsat Global Sales And
Marketing Limited,
C/o PricewaterhouseCoopers (P) Ltd.,
8th floor, Prestige Palladium Bayan,
129-140, Greams Road,
Chennai - 600 006.

v. The Deputy Commissioner of
Income Tax,
Circle 1(1),
International Taxation,
Chennai.

PAN : AABCI 1539 E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Ashik Shah, CA

प्रत्यर्थी की ओर से/Respondent by : Smt. T.H. Vijayalakshmi, CIT

सुनवाई की तारीख/Date of Hearing : 20.09.2017

घोषणा की तारीख/Date of Pronouncement : 27.09.2017

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the assessment dated 11.01.2017, consequent to the direction of the DRP dated 19.12.2016, for the assessment year 2013-14.

2. When the appeal was taken up for hearing, the Ld. representative for the assessee submitted that on identical issue, this Tribunal examined the same and found out that the claim of assessee that the equipment installed at Chandigarh and Chennai was dismantled in the year 2004 was not brought on record before the authorities below. It was also found that the Assessing Officer proceeded as if the assessee was maintaining the equipment at Chandigarh and Chennai for all the assessment years continuously. Accordingly, this Tribunal remitted back the matter to the Assessing Officer to re-examine the matter after examining the technical experts from VSNL who are responsible for maintaining the Earth Station in India or any other companies which have entered into agreement with the assessee and bring on record the actual services rendered by the assessee consequent to the agreement said to be entered into with telecasting companies / telecom operators and thereafter decide the issue in accordance with law. Since the issues raised by the assessee for the year under consideration also identical, the Ld. representative submitted that the matter may be remitted back to the file of the Assessing Officer with identical direction.

3. Smt. T.H. Vijayalakshmi, the Ld. Departmental Representative also brought to the notice of this Bench that on identical situation, this Tribunal remitted back the matter to the file of the Assessing Officer, therefore, for this assessment year also the matter may be remitted back to the file of the Assessing Officer for reconsideration. Referring to the rate of tax for TDS, the Ld. D.R. submitted that this issue was also remitted back to the file of the Assessing Officer, therefore, for the year under consideration also, the rate of tax on payment of royalty may be remitted back to the file of the Assessing Officer.

4. We have considered the submissions made by both the parties and perused the relevant material available on record. On identical circumstances, this Tribunal in the assessee's own case for assessment years 2002-03 to 2012-13 in I.T.A. Nos.1070 to 1074 & 1621/Mds/2010, 1562/Mds/2011, 2246/Mds/2012, 470/Mds/2014, 432/Mds/2015 and 516/Mds/2016, examined this issue elaborately and found that the matter needs to be re-examined. In fact, this Tribunal examined the matter on facts and directed the Assessing Officer to re-examine as follows:-

“16. If the assessee-company dismantled the equipment / machinery installed at Chandigarh and Chennai in the year 2004, it is not known how the assessee is testing the quality of signal retransmitted to India. The so called Earth station maintained by VSNL and other companies in India may be down linking the signal/data from the satellite. The question arises for consideration is whether the Earth Station said to be maintained by VSNL and other companies could receive signal/data without any intervention by the assessee-company in India. This fact was not examined by both the authorities below. Further, how the signals were received in India without intervention of the assessee-company needs to be examined. This Tribunal is of the considered opinion that technical experts from VSNL or any other companies which entered into agreement with assessee-company needs to be examined about the mode of receipt of signal/data which was retransmitted by the assessee-company in India. Since the Assessing Officer has not examined the technical experts, this Tribunal is of the considered opinion that to appreciate the real services rendered by the assessee, the matter needs to be re-examined by the Assessing Officer. Accordingly, the orders of the lower authorities are set aside and the entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter afresh after examining the technical experts from VSNL who is responsible for maintaining the Earth Station in India or any other companies which has entered into similar agreement with the assessee and bring on record the actual services rendered by the assessee consequent to the agreement said to be entered into telecasting companies / telecom operators and thereafter decide the issue in accordance with law after giving a reasonable opportunity to the assessee.”

5. In view of the above, this Tribunal is of the considered opinion that during the year under consideration also it needs to be re-examined. Accordingly, the orders of both the authorities below

are set aside and the Assessing Officer is directed to re-examine both the issues in the light of the direction issued by this Tribunal for assessment years 2002-03 to 2012-13.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 27th September, 2017 at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 27th September, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. DRP-2, Bangalore
4. Principal CIT-1, Chennai.
5. CIT (TP), Chennai
6. विभागीय प्रतिनिधि/DR
7. गार्ड फाईल/GF.