

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA No. 7608/Mum/2014
(Assessment Year 2010-11)

Morgan Stanley Solutions
India Private Limited,(Formerly
Known as MSIM Global Support
And Technology Services Private Limited)
4th Floor, Building No.B-2, Nirlon Knowledge Park,
Pahadvi Village, Off Western Express Highway,
Goregaon East, Mumbai 400 063
PAN:AADCM7403M

..... Appellant

Vs.

The DCIT, Circle 9(2)
Room No.261, 2nd Floor
Aaykar Bhavan,M.K.Road,
Mumbai 400 020

.... Respondent

Appellant by : Shri Tushar Hathiramani
Respondent by : Shri Jayant Kumar

Date of hearing : 05/10/2017
Date of pronouncement : 11/10/2017

ORDER

PER G.S.PANNU,A.M:

The captioned appeal filed by the assessee pertaining to assessment year 2009-10 is directed against an order passed by DCIT, Cir.9(2), (in short the Assessing Officer) passed under section 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 (in short the Act) dated

30/10/2014, which is in conformity with the direction of the Dispute Resolution Panel-1, Mumbai (in short “the DRP”) dated 29/09/2014.

2. Vide letter dated 4th October, 2017, assessee has requested for grant of permission to withdraw its appeal. The contents of the assessee’s letter read as under:-

“We refer to the captioned appeal scheduled for hearing before the Hon'ble 'K' Bench on 5 October 2017.

In respect of the same, we wish to submit as under:

For the year under consideration, the Hon'ble Dispute Resolution Panel (DRP) had granted relief on certain grounds following which the transfer pricing adjustment proposed by the transfer pricing officer would stand deleted. However, while issuing the final assessment order, the Assessing Officer (AO) did not consider the directions of the Hon'ble DRP for computing the arm's length price.

Therefore, the Assessee filed an appeal before the Hon'ble ITAT to challenge the assessment order passed by the learned AO for, inter alia, failing to incorporate the directions issued by the Hon'ble DRP. Simultaneously, the Assessee had also filed a rectification letter dated 27 November 2014, in order to rectify these mistakes which are apparent from record.

Subsequent to the rectification application filed by the Assessee, the AO rectified the mistakes apparent from record by issuing an order dated 30 April 2015, under section 154 of the Income-tax Act,1961, giving appropriate effect to the DRP directions.

Given the above, we would like to withdraw this appeal with the permission of Your Honour.

Separately, the Assessee, in its grounds of appeal before the Hon'ble ITAT, stated that the learned AO has also erred in considering the activities undertaken by the Assessee as Knowledge Process outsourcing (KPO), without considering that, in prior years the same was held to be as Information technology enabled support services (ITES) and not KPO services.

The withdrawal of the captioned appeal by the Assessee is solely for the purpose of buying peace of mind and company is of the view that the functions performed are in the nature of ITES and not in the nature of KPO.

Accordingly, MSSl wishes to submit that withdrawal of the captioned appeal should not, in any manner; affect MSSl's right, for the purposes of ongoing/ past/ future litigation, to agitate similar grounds in other years or to contend that the functions performed by MSSl are in the nature of ITES and not in the nature of KPO.

We pray to your honour to kindly accept our request of withdrawal of appeal and oblige."

3. Ld. Departmental Representative for the Revenue has no objection to the aforesaid request of the assessee.
4. Accordingly, the appeal of the assessee is dismissed as withdrawn
Order pronounced in the open court on 11/10/2017.

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-
(G.S. PANNU)
ACCOCUNTANT MEMBER

Mumbai, Dated 11/10/2017
Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai