



IN THE INCOME TAX APPELLATE TRIBUNAL
"L" BENCH, MUMBAI
BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER AND
SHRI N.K PRADHAN, ACCOUNTANT MEMBER

ITA no.1642/Mum/2015
(Assessment Year : 2011-12)

Linklaters Singapore Pte. Ltd.
(Formerly known as Linklaters
Allen & Gledhill Pte. Ltd.)
C/o Deloitte Haskins & Sells LLP
Tower-3, 27-32 Floor
Indiabulls Finance Centre
Elphinstone Mill Compound
Senapati Bapat Marg, Elphinstone (W)
Mumbai 400 013 PAN – AABCL5295L

..... Appellant

v/s

Dy. Commissioner of Income Tax (I.T)
Circle-3(1)(2), Mumbai

..... Respondent

Assessee by : Shri S.E. Dastur a/w
Shri Niraj Sheth
Revenue by : Shri Samuel Darse

Date of Hearing – 04.06.2018

Date of Order – 29.08.2018

ORDER

PER SAKTIJIT DEY, J.M.

Aforesaid appeal has been filed by the assessee challenging the assessment order dated 7th January 2015, passed under section 143(3) r/w 144C(13) of the Income Tax Act, 1961 (for short "*the Act*") for the assessment year 2011-12 in pursuance to the directions of the Dispute Resolution Panel (DRP).

2. Grounds no.1, 2 and 8 are general in nature. Hence, do not require adjudication.

3. Ground no.7, being premature at this stage, does not require adjudication.

4. In grounds no.3 and 4, assessee has raised the issue of taxability of income derived from rendering of legal services as fees for technical services under section 9(1)(vii) of the Act as well as denial of benefit under India–Singapore Double Taxation Avoidance Agreement (DTAA).

5. These two grounds are identical to grounds no.5 and 7 of ITA no. 1540/Mum./2016, in case of another group concern viz; Linklaters LLP, dispose off by us by a separate order of even date. At the time of hearing, the learned Counsels appearing for rival parties have agreed before us that the relevant provisions of India–Singapore DTAA governing the issue in dispute are *pari materia* to provisions under India–UK DTAA. While deciding identical nature of dispute in case of Linklaters LLP (*supra*), we have held that the income received by the assessee for the services rendered do not come within the purview of fees for technical services under Article–13 of the India–U.K. DTAA. Facts being identical. Following our decision therein, we hold that the income received by the assessee for rendering services is not taxable

as fees for technical services under Article-12 of India-Singapore DTAA. Accordingly, we delete the addition made by the Assessing Officer. In view of the above, ground no.4 is allowed and ground no.3 having become infructuous is dismissed.

6. Ground no.5, relates to disallowance of reimbursement of expenditure.

7. This ground is identical to ground no.10 of ITA no.1540/Mum./2016, in case of Linklaters LLP (supra). Following our decision therein, we delete the disallowance made by the Assessing Officer. Ground raised is allowed.

8. In ground no.6, assessee has challenged levy of interest under section 234B of the Act.

9. This ground is identical to ground no.12 of ITA no.1540/Mum./2016 in case of Linklaters LLP (supra). Following our decision therein, we allow the ground raised.

10. In the result, assessee's appeal is partly allowed.

Order pronounced in the open Court on 29.08.2018

Sd/-
N.K. PRADHAN
ACCOUNTANT MEMBER

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 29.08.2018

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The CIT(A);*
- (4) *The CIT, Mumbai City concerned;*
- (5) *The DR, ITAT, Mumbai;*
- (6) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

(Sr. Private Secretary)
ITAT, Mumbai