

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No.434/Chny/2021**  
(निर्धारण वर्ष / **Assessment Year: 2015-16**)

<b>M/s. Visteon Corporation</b> Grace Lake Corporation Centre, Van Buren Township, Michigan - 48111.	<b>बनाम/</b> Vs.	<b>DCIT,</b> International Taxation, Circle-2(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ <b>PAN/GIR No. AADCV-5660-K</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri N.V. Balaji (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri M. Rajan (CIT) –Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	21-02-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	21-02-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. By way of this appeal, the assessee contests the invocation of revisionary jurisdiction u/s. 263 by Learned Commissioner of Income Tax (International Taxation), Chennai (CIT) vide order dated 30-03-2021. The Ld. AR submitted that the replies filed by the assessee during the course of revisionary proceedings have not been considered by the authority.

The Ld. CIT-DR, on the other hand, submitted that Ld. AO failed to take note of Article-23 of India-USA Treaty which justifies the revision.

2. Having heard rival submissions and after due consideration of material facts, our adjudication would be as given in succeeding paragraphs.

3. The perusal of record would show that the assessee was assessed u/s. 143(3) on 28.12.2017. The assessee is resident of United States. During the course of assessment proceedings, it transpired that the assessee rendered IT support service to its Associated Enterprises in India and received service charges. The services were primarily IT and infrastructure related services. The Ld. AO concluded that the services were not liable to be taxed as per Article 12 of India-USA DTAA and accepted the claim of the assessee that the services would not fall within the ambit of 'fees for included services'. Accordingly, the returned income was accepted.

4. However, subsequently upon perusal of case records, Ld. CIT held that Ld. AO did not examine the applicability of Article-23 to the receipts and therefore, the order would require revision u/s 263. Accordingly, the assessment was set aside and Ld. AO was asked to re-frame the same after examining the character of the receipts and taxability thereof along with applicability of Article-23 after giving fresh opportunity to the assessee. Aggrieved, the assessee is in further appeal before us.

5. We find that the assessee had made detailed submissions vide its letter dated 30.03.2021 to revisional authority, the cognizance of which has remained to be taken in the impugned order. In the said reply, the assessee has elaborately explained as to how the provisions of Article-23 would not be applicable to the case of the assessee. We find that this

reply would have material bearing on the revision. Since, the same has remained to be considered, we set-aside the impugned order and remit the matter of revision back to the file of revisional authority. The Ld. CIT is directed to reconsider the revision after considering assessee's reply. Adequate opportunity of hearing shall be granted to the assessee.

6. The appeal stands allowed for statistical purposes.

Order pronounced on 21<sup>st</sup> February, 2022.

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखक सदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 21-02-2022  
*JPV*

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF