

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI ‘T’ BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)
and Sandeep Singh Karhail (Judicial Member)]**

ITA No. 2538/Mum/2021
Assessment Year: 2015-16

Dy. Commissioner of Income Tax (International Taxation)
Circle – 4(2)(1), Mumbai**Appellant**

Vs

Shelf Drilling Trident XII Ltd.**Respondent**
*C/o. 4th floor, Chemtex House, Main Street,
Hiran Andani, Gardens, Powai,
Mumbai-400 076 [PAN: AASCS 2714 A]*

Appearances by

Milind Chavan *for the appellant*
Niraj Sheth along with **Sanjay Shukla** *for the respondent*

Date of concluding the hearing : April 04, 2022
Date of pronouncement : April 07, 2022

ORDER

Per Pramod Kumar, VP:

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 02.09.2021 passed by the learned CIT(A)-58, Mumbai in the matter of assessment u/s.143(3) r.w.s 144C(3) of the Income Tax Act, 1961, for the assessment year 2015-16.

2. Grievance raised by the Assessing Officer is as follows:

“Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in excluding service tax from the amount paid or payable to, received or receivable by the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India for the purpose of determining presumptive profit u/s.44BB of the Act?”

3. As learned representatives fairly agree, the issue in the appeal is covered, in favour of the assessee, by several decisions of Hon'ble High Courts, including in the cases of DIT Vs Mitchell Drilling International Pvt Ltd [(2015) 62 taxmann.24 (Del)], DIT Vs Schlumberger Asia Services Ltd [(2019) 104 taxmann.353 (Uttarakhand FB)] and PCIT Vs Boskalis International- Dredging International [24 ITXA 55-17 (Bom)]. The conclusions arrived at by the learned CIT(A), which are in harmony with the views so expressed by Hon'ble Courts above- including the Hon'ble jurisdictional High Court, cannot be faulted.

4. We, therefore, see no reasons to take any other view of the matter than the view so taken by the several decisions of Hon'ble High Courts. Respectfully following the same, we approve the conclusions arrived at by the learned CIT(A) and decline to interfere in the matter.

5. In the result, the appeal filed by the Revenue is dismissed. Pronounced in the open court today on the 7th day of April, 2022.

Sd/-

Sandeep Singh Karhail
(Judicial Member)

Mumbai, dated the 7th day of April, 2022
Roshani, Sr. PS

Copies to:

(1)	<i>The Appellant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

Sd/-

Pramod Kumar
(Vice President)

By order

True Copy

Assistant Registrar/Sr. PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai