

Rs.3.37 crore. The assessee rendered IT Support services to its four Indian Associated Enterprises (AEs), namely, Sandvik Asia Pvt. Ltd. for a sum of Rs.29,87,15,624/-; Walter Tools India Pvt. Ltd. for a sum of Rs.1,73,15,155/-; Dormer Tools India Pvt. Ltd. for a sum of Rs.36,68,288/-; and Seco Tools India Pvt. Ltd. for a sum of Rs.44,56,064/-. The assessee claimed that sum total of these service charges received totaling to Rs.32.41 crore was not chargeable to tax in view of Article 12 of the Double Taxation Avoidance (DTAA) Agreement between India and Sweden read with Protocol thereto. The Assessing Officer (AO) included such amount in the total income in the draft order. The assessee remained unsuccessful before the Dispute Resolution Panel (DRP), which led the AO to make the above addition in the final assessment order. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

3. We have heard the rival submissions and perused the relevant material on record. At the outset, it is pertinent to record that both the sides fairly admitted that the services rendered by the assessee to the four Indian entities were similar to those provided by it in the earlier years. It was also not disputed that the agreements under which the services were provided also continue

to remain the same as were prevalent in the preceding years. The sum and substance of the above submissions is that the assessee rendered services to its four Indian entities in the same manner and under the same agreements as was the position for the immediately preceding assessment year and earlier years. The AO made similar addition in the earlier years as well. The question of taxability of the IT Support service charges received by the assessee from its four associated enterprises came up for consideration before the Tribunal in earlier years also. The latest order for the immediately preceding assessment year 2017-18 has been placed in the paper book. The Tribunal held that the receipt from Sandvik Asia Pvt. Ltd. was not chargeable to tax. As regards the receipt from other three AEs, the Tribunal remitted the matter to the file of AO for examining the precise nature of services before taking a final decision. In view of both the sides agreeing that the facts and circumstances are similar, respectfully following the precedent, we overturn the impugned order insofar as the taxability of Rs.29,87,15,624/- from Sandvik Asia Pvt. Ltd. is concerned. This amount is directed to be excluded from the total income of the assessee. As regards the IT Support Service charges received by the assessee from other three entities,

following the precedent, we set-aside the impugned order and remit the matter to the file of the AO for deciding it afresh in conformity with the observations made by the Tribunal in its order for the immediately preceding assessment year.

4. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 15th September, 2022.

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 15th September, 2022
सतीश

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The respondent
3. The CIT(A)-13, Pune
4. The PCIT-5, Pune
5. DR, ITAT, 'C' Bench, Pune
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	15-09-2022	Sr.PS
2.	Draft placed before author	15-09-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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