

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI**

**Before Sh. Saktijit Dey, Vice President
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 1762/Del/2023 : Asstt. Year: 2018-19

DCIT, Circle-2(1)(2), International Taxation, New Delhi-110002	Vs	J Ray Mcdermott S.A., C/o M/s Nangia & Co., LLP, A-109, Sector-136, Noida, U.P. And C/o Nangia & Company, LLP, B-27, Soami Nagar, Delhi-110017
(APPELLANT)		(RESPONDENT)
PAN No. AADCJ6385R		

**Assessee by : Sh. Amit Arora, CA &
Revenue by : Sh. Sanjay Kumar, Sr. DR**

Date of Hearing: 11.10.2023	Date of Pronouncement: 21.12.2023
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by Revenue against the order of Id. CIT(A)-43, New Delhi dated 21.03.2023.

2. Following grounds have been raised by the Revenue:

"1. Whether the facts and circumstances of the case, Id. CIT(A) erred in holding that receipts on account of Service Tax/GST are not forming part of the gross receipts for the purpose of determining presumptive income u/s 44BB of the Income Tax Act, 1961."

3. The assessee is a non-resident foreign company incorporated under the laws of Republic of Panama. The assessee is engaged in the business of providing services and

facilities for exploration and production of oil and natural gas in India.

4. The issue of inclusion of VAT/Service Tax/GST stands for the purpose of Section 44BB of the Income Tax Act, 1961 has been settled by the order of the various Hon'ble High Courts. We find that the Id. CIT(A) has rightly deleted the addition based on the judgments of the Hon'ble High Court in the case of DIT Vs. Mitchell Drilling International Pvt. Ltd. (380 ITR 130) and the order of the Co-ordinate Bench of ITAT in the case of DCIT Vs. Baker Hughes Singapore Pte. In ITA No. 6178/Del/2017, order dated 08.02.2022.

5. For the sake of ready reference, the operative part of judgment in the case of DIT Vs. Mitchell Drilling International Pvt. Ltd. (supra) is reproduced below:

"that for the purposes of computing the presumptive income of the assessee for the purposes of Section 44BB, the service tax collected by the assessee on the amount paid to it for rendering services was not to be included in the gross receipts in terms of Section 44BB(2) read with Section 44BB(1). The service tax is not an amount paid or payable, or received or deemed to be received by the assessee for the services rendered by it. The assessee only collected the service tax for passing it on to the Government."

6. In the absence of any change in the factual matrix and legal proposition, we hereby decline to interfere with the order of Id. CIT(A).

7. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 21/12/2023.

Sd/-

(Saktijit Dey)
Vice President

Dated: 21/12/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR