

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND**  
**SHRI S. R. RAGUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1419/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2018-19

M/s. Bengal Tiger Line Pte Ltd.,  
200, Cantonment Road,  
13 01, South Point,  
Singapore.

**[PAN: AADCB-6864-F]**

(अपीलार्थी/Appellant)

Deputy Commissioner of  
Income Tax,  
International Taxation -1(1),  
No. 16, Greams Road,  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. S.P. Chidambaram, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 16.04.2024

घोषणा की तारीख/Date of Pronouncement

: 29.05.2024

**आदेश /ORDER**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

Aforesaid appeal by assessee for assessment year 2018-19 arising out of final assessment order passed by the Id. Assessing Officer (AO) u/s. 147 r.w.s. 144C(13) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") on 09.11.2023 pursuant to the directions of the Dispute Resolution Panel-2, Bengaluru (DRP) u/s. 144C(5) dated 08.11.2023.

2. The assessee raised the following grounds of appeal:
  1. reopening of assessment u/s. 147 of the Act as invalid
  2. documentation charges and vessel handling charges amounting to Rs.71,58,829/- cannot be assessed as income in the hands of the appellant.
  3. International shipping income from freight operations amounting to Rs.7,50,96,532/- assessed to tax in India u/s. 44B of the Act based on the directions of DRP and the consequential final assessment order is erroneous.
  
3. The brief facts of the case are that, the assessee is a shipping company incorporated in Singapore. The assessee has claimed exemption from tax on income received from shipping operations in India in pursuant to the India-Singapore tax treaty under Article 8 of India-Singapore DTAA, the tax resident of Singapore involved in the operations of ships in international traffic, is assessable to tax in Singapore on global income received (including income earned in India) from its shipping business. The assessee had filed its return of income for the assessment year 2018-19 on 31.10.2018, declaring Nil income and claiming exemption of the income accrued in India, by claiming benefit of Article 8 of India-Singapore DTAA.

Subsequently, survey u/s. 1334(2A) of the Act was carried out at the premises of its Indian Associate entity M/s. Bengal Tiger Line India Pvt Ltd on 07.03.2019. Based on the findings of the survey operations, the case of the assessee was reopened u/s. 147 of the Act, after obtaining the approval of Competent Authority for conducting enquiry and issuance of notice u/s. 148A of the Act. The assessee company did not respond to the notice u/s. 148A(d) of the Act and an order u/s. 148A(d) of the Act was passed dated 31.03.2022, along with notice u/s. 148 of the Act dated 31.03.2022 was served to the assessee company.

4. In response to section 148 notice, the company e-filed the return of income on 29.04.2022, returning the taxable income of Rs.2,09,475/- for taxation at special rate in accordance to section 44B of the Act. Further, the notices u/s. 143(2) and 142(1) of the Act were issued to the assessee on 23.06.2022 and 28.12.2022 respectively, calling for further details. Based on the survey proceedings conducted in the case of M/s. Bengal Tiger Line India Pvt Ltd on 07.03.2019, which is an agent company of the assessee in India, the documentation charges and vessel handling charges collected

by the assessee's agent in India, the AO proposed to treat that as income of the assessee which is taxable @ 40%, which has already been declared as income of the Indian agent company and discharged the applicable taxes. Apart from the receipts declared by the Indian agent, the assessee company is claiming shipping income as exempt, which is not acceptable by the Department and proposed to treat shipping income @ 7.5% on the gross collections of Rs.100,12,87,089/- and lay tax accordingly.

5. In response, the assessee had explained with relevant documents that the income accruing and arising to the assessee from shipping business is not taxable in India both as per provisions of Income Tax Act and as per India-Singapore DTAA. The assessee also contended that the issue of taxability of shipping income has already been decided in favour of the assessee in their own case vide ITAT order in IT(TP)A No. 11/Chny/2020, dated 06.11.2020 for the assessment year 2015-16.

6. The Id.AO confirmed the above proposed additions after obtaining the directions from the Id.DRP by passing the

assessment order on 09.11.2023. Aggrieved by the impugned order u/s. 147 r.w.s. 144C(13) of the Act of the AO, the assessee preferred an appeal before us.

7. The Ld. Counsel for the assessee assailed the order of the AO and filed a paper book consisting of 467 pages. As far as the reopening of assessment ground is concerned, he asserted that the 'documentation and vessel handling charges' had already been offered to tax by the Indian subsidiary (M/s. Bengal Tiger Line India Pvt Ltd) and has been elaborately covered in favour of the assessee in its own case in ITA No. 316/Chny/2023 dated 19.10.2023 and common order for five previous assessment years in IT(TP)A Nos. 5,18,19,21 &22/Chny/2021 dated 04.05.2023. Therefore, considering the said revenue as income of the assessee, which has escaped assessment is erroneous and needs to be quashed.

8. The Ld. Counsel for the assessee, in regard to international shipping income from freight operations, the assessee is a non-resident company incorporated in Singapore and has already provided tax residence certificate from Inland Revenue Authority of Singapore. The Ld. Counsel for the

assessee also took us through IRAS letter which clarifies that freight income is taxable on accrual basis in Singapore and Article 24 of India-Singapore DTAA is not applicable to the assessee, which has been confirmed by the Inland Revenue Authority of Singapore. These issues have already been considered and adjudicated in favour of the assessee company in assessee's own cases covered by the coordinate bench of ITAT (Supra) and requested to quash the impugned order of the AO and delete the additions made in the impugned assessment order.

9. Per contra, the Id.DR has stated that he relies on the assessment order of the AO.

10. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Upon perusal of case records and after considering the tribunal decisions in assessee's own case for the assessment years 2012-13, 2013-14, 2015-16, 2016-17 & 2017-18, the submissions of the Id.AR that the issue on legal grounds as well as on merits are covered in assessee's favour and there is no change in the material facts. The coordinate bench in Paras

11 to 16 of the order in IT(TP)A No. 18/Chny/2021 (Supra) and in Para 3 & 4 of ITA No. 316/Chny/2023 (Supra) has already held that the re-assessment proceedings as well as consequential assessments framed therein are unsustainable in law and accordingly liable to be quashed. The issues on merits also has been dealt by the bench in Paras 17 to 28 of the above said order, which has been decided that assessee will be entitled to the benefit of Article 8 of the treaty and the impugned charges are not taxable in India in the hands of the assessee. Therefore, the facts and circumstances being the same in the present appeal, by taking the same view we allow the legal grounds as well as grounds on merits. The Id.AO is directed to re-compute the income of the assessee in accordance with law.

11. In the result, appeal filed by the assessee is allowed.

Order pronounced in the court on 29<sup>th</sup> May, 2024 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /Vice President

**Sd/-**  
**(एस. आर. रघुनाथा)**  
**(S. R. RAGUNATHA)**  
लेखासदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 29<sup>th</sup> May, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF