



# IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'C' PUNE



BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

AND

SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No. 0270/PUN/2024 & 0303/PUN/2024

Assessment Year : 2018-19 & 2019-20

Asstt. Commissioner of Income Tax  
Circle-2, Pune.

..... *Appellant*

V/s

Stantec UK Ltd.  
240, Cygnet Court,  
Lakeside Drive Central Park,  
United Kingdom-GB WA11RN  
PAN: AAHCM3429K

..... *Respondent*

## **Appearances**

Assessee by : \*None for the Assessee

Revenue by : Mr Gopal Rawlani ['Ld. DR']

Date of conclusive Hearing : 06/06/2024

Date of Pronouncement : 06/06/2024

## **ORDER**

### **PER G. D. PADMAHSHALI, AM;**

This twin appeals of the Revenue instituted u/s 253(2) of the Income-tax Act, 1961 ['the Act' hereinafter] impugns respective orders of Ld. Commissioner of Appeals-13, Pune ['Ld. CIT(A)' hereinafter] passed u/s 250 of the Act, which in turn arisen out of orders of assessment passed by the Ld. Asstt. Commissioner of Income Tax, INT Tax Circle-4(2)(2), Mumbai ['Ld. AO' hereinafter] u/s 143(3) r.w.s. 144C(3) of the Act anent to assessment year 2018-19 & 2019-20 ['AY' hereinafter].

2. \* The power of attorney filed during the course of hearing by Mr Mukesh Joshi being not in consonance with provisions of section 288 of the Act, and resultant attendance thereagainst rendered bootless for consideration & records.



3. Since the facts and issues involved in this bunch of appeals are common & identical, on the request from the Revenue, for the sake of brevity these appeals are heard together for a common and consolidated order.

4. The records prima-facie reveals that;

4.1 The assessment u/s 143(3) r.w.s. 144(3) of the Act vide order dt. 24/06/2021 & 08/11/2021 for AY 2018-19 & 2019-20 respectively were framed by the Ld. Asstt. Commissioner of Income Tax, International Tax Circle-4(2)(2), Mumbai whereby the corporate charges received by the assessee from its Indian Associate Enterprise viz; Stantec Resource Net India Pvt. Ltd. ['AE' hereinafter] were treated as Fees for Technical Service ['FTS' hereinafter] and accordingly brought to tax @ prescribed u/a 13 of India-UK Double Taxation Avoidance Agreement ['DTAA' hereinafter]

4.2 Aggrieved by the aforestated determinations & taxation, the assessee company filed separate appeals which were allowed by the Ld. CIT(A)-13, Pune by separate orders dt. 09/01/2024 & 12/01/2024 u/s 250 of the Act.

4.3 Aggrieved by the adjudication of the Ld. CIT(A), the Revenue set-up this twin appeals challenging the reversal of assessments by the first appellate authority.

5. During the course of hearing, the Ld. DR Mr Rawlani adverting to notification S.O.4873(E) [No. 113/2022/F.No.279/Misc/66/2014-ITJ(PT)] dt. 13/10/2022 issued by Central Board of Direct Taxes ['CBDT' hereinafter] averred that, in first place the first appellate jurisdiction over the appeals arising out of orders of assessment passed by the Ld. AO was with Ld. Commissioner of Income Tax-(Appeals), Mumbai-58 ['Jurisdictional-CIT(A)' hereinafter] and not with the Ld. CIT(A). In support of this



claim it is submitted before us that, both the original assessments framed u/s 143(3) r.w.s. 144C of the Act by the Ld. AO were challenged by the assessee by separate appeals before the Ld. CIT(A) on 30/09/2021 & 30/11/2021. The former notification issued by CBDT came into effect w.e.f. 13/10/20022, therefore it is an admitted fact that appeals against the assessment orders were filed before Ld. CIT(A) much prior to issuance former notification. However, in absence of any exception carved out in the aforesaid notification, from the date of its issuance the Ld. CIT(A) ceased to exercise his jurisdiction over all pending appeals which stemmed out of orders of assessment passed by the Ld. AO whose situs were outside the jurisdiction of the Ld. CIT(A). Therefore the impugned orders passed inadvertently by the Ld. CIT(A) without taking cognizance of binding notification (supra) deserves to be set-aside and in consequence appeals be remanded to Jurisdictional-CIT(A) for de-nova adjudication.

6. Without offering our comments on twofold jurisdictional issue brought to our notice by the Ld. DR viz; (i) jurisdiction of first appellate authority i.e. Ld. CIT(A) in adjudicating the appeals of the assessee company filed against the orders of assessment passed by Ld. AO in violation of or sidestepping the CBDT's binding notification (supra) (ii) and disregarding law laid down by Hon'ble Apex Court in '*PCIT Vs ABC Paper Ltd.*' reported in [2022] 447 ITR 1 (SC) [Equivalent Citation 141 Taxmann.com 332 (SC)] in the absence of transfer order (if any), we have heard party/ies present on a limited issue of territorial jurisdiction of this Tribunal over the present appeals filed by the Revenue and subject to rule 18 of ITAT Rules, 1963 perused the relevant material placed on records.



7. Although certain benches of the Tribunal exercise its jurisdiction over more than one state, however the explanation 4 to Standing Order dt. 01/10/1197 issued under rule 4(1) of Income Tax Appellate Tribunal Rules, 1963 prescribes that; the ordinary jurisdiction of the Tribunal should be based on the location of the Assessing Officer. Reinforcing the above principle, the Hon'ble Supreme court by its decision in '*PCIT Vs ABC Papers Ltd.*' (supra), has put the issue of jurisdiction of appellate forum to rest by holding that, the '*situs of the assessing officer*' is the only key factor for determining the jurisdiction of appellate forum irrespective of any administrative order passed u/s 127 of the Act in relation to transfer of cases.

8. In view of above, in this twin appeals since the *situs* of the Ld. AO who framed the assessment is beyond the territorial jurisdiction of this Tribunal, therefore without offering our comments on former twofold issue dilated at para 6 hereinbefore, we deem it fit to dismiss this twin appeals of the Revenue with leave to institute them before appropriate bench of the Tribunal which exercises the jurisdiction over the Ld. AO who framed the assessment, *ergo* ordered accordingly.

**9. Both the appeals of the Revenue in result are DISMISSED on above terms.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Thursday, 06<sup>th</sup> June, 2024.

-S/d-

**VINAY BHAMORE**  
**JUDICIAL MEMBER**

-S/d-

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 06<sup>th</sup> June, 2024.

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.  
4. The CIT(A) Concerned.

2. प्रत्यर्थी / The Respondent.  
5. DR, ITAT, Bench 'C', Pune

3. The Pr. CIT Concerned.  
6. गार्डफाइल / Guard File.

आदेशानुसार / By Order  
वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.