

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
And
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.185/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2018-19)

Shri Prasad Nimmagadda Hyderabad PAN:ABKPN3078N (Appellant)	Vs.	Asstt. C. I. T. Central Circle 2(2) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri K.A. Sai Prasad, CA
राजस्व द्वारा / Revenue by:		Smt. Sheetal Sarin, DR
सुनवाई की तारीख / Date of hearing:	06/06/2024	
घोषणा की तारीख / Pronouncement:	10/06/2024	

आदेश/ORDER

Per Laliet Kumar, J.M

This appeal filed by the assessee is directed against the order dated 26.12.2023 of the learned CIT (A)-12, Hyderabad, relating to A.Y.2018-19.

2. The grounds raised by the assessee reads as under:

1. The order dt.26.12.2023 passed by the learned CIT(A)-12 is not justified and incorrect both on facts and in law.
2. The Assessing Officer/CIT(A)-12 ought to have accepted that by virtue of Regulation 15(2) of Singapore DTAA, salary income earned in Singapore by the Appellant is taxable in Singapore only and not taxable in India u/s 5 of the IT Act, since the salary is paid out by Singapore resident-company.
3. The Assessing Officer/CIT(A)-12 ought to have held that the salary earned in Singapore can be taxed in India u/ s 5 of IT Act only if all the three conditions specified in Regulation 15(2) of Singapore DTAA are fulfilled cumulatively.
4. Without prejudice to the above grounds, the AO be directed to give credit to the foreign taxes paid in Singapore by the Appellant on the salary income which is the subject matter of this appeal by condoning the delay, if any.
5. The appellant craves leave to add, supplement, modify, and delete any of the above ground during the course of appeal.

3. Facts of the case, in brief, are that the assessee filed its return of income for the A Y 2018-19 on 26.11.2018 declaring income of Rs.95,57,590/-. The case was selected for scrutiny (CASS) and statutory notices u/s 143(2) and 142(1) were issued and served on the assessee to which the assessee filed the requisite details before the Assessing Officer from time to time. The assessee as per his return of income, earned Salary of SGD 2,40,000 during the period 2017-18, which was reported in Schedule G of FA in ITR under details of any other income derived from any source outside India. The assessee reported the salary received from M/s Gquest Pte Ltd amounting to Rs.1,20,00,000/-

but the salary income was not offered to tax in the computation of total income. Accordingly, a show cause notice was issued to the assessee on 11-03-2022 requesting the assessee to explain why an amount of Rs.1,20,00,000/- should not be treated as taxable income in India as the assessee being resident during the period 01-04-2017 to 31-03-2018. According to the Assessing Officer, as per the Double Taxation Avoidance Agreement (DTA) between India and Singapore tax treaty between the two countries to avoid the double taxation of income that may flow between the two countries in respect of various services. Since the assessee has neither offered the salary income received from M/s. Gquest Pte Ltd nor had paid taxes on the salary income in Singapore, the Assessing Officer made addition of Rs.1,20,00,000/-. The Assessing Officer also made addition of Rs.27,450/- towards the capital gains worked out to Rs.3,05,683/-. Thus, the Assessing Officer completed the assessment and made a demand of Rs.2,15,57,590/-.

4. In appeal, the learned CIT (A) upheld the addition made by the Assessing Officer on the ground that the assessee has neither offered the salary income nor paid any taxes in Singapore as per Schedule FSI and Schedule TR of return filed for the A.Y 2018-19.

5. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

6. The learned Counsel for the assessee submitted that the Assessing Officer and the learned CIT (A) ought to have accepted that by virtue of Regulation 15(2) of Singapore DTAA, salary income earned in Singapore by the assessee is taxable in Singapore only and not taxable in India u/s 5 of the I.T. Act, 1961. It is the submission of the learned Counsel for the assessee that given an opportunity, the assessee would be able to substantiate its claim with documentary evidence before either of the lower authorities.

7. The learned DR, on the other hand, heavily relied on the orders of the authorities below.

8. We have heard the rival arguments made by both the sides and perused the material available on record. We find that the assessee failed to submit any evidence for the taxes paid in Singapore. It is the submission of the assessee that given an opportunity, the assessee would be in a position to substantiate its claim with documentary evidence before the learned CIT (A). Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT (A) with a direction to grant one final opportunity to the assessee to substantiate its claim with documentary evidence. We levy a charge of Rs.5000/- on the assessee for non-compliance of the directions given by the learned CIT (A) and direct the assessee to pay the said sum to the Telangana State Legal Aid

Services Authority at the Telangana High Court within one month from the date of this order and submit the payment slip to the Registry. With the above directions, the appeal of the assessee is restored to the file of the learned CIT (A). We hold and direct accordingly.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 10th June, 2024.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 10th June, 2024

Vinodan/sps

Copy to:

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3	Pr. CIT – Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order