

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1422/Chny/2024
निर्धारण वर्ष /Assessment Year: 2020-21

The Income Tax Officer
(International Taxation),
Ward-1(2), Chennai.

Vs. Jeeth Anand,
No.5/11, Home Finders Estate,
Thiruvalluvar,
Salai Ramapuram,
Chennai.
[PAN: ADQPJ 9238A]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by

: Shri J. Pranay Gandhi, CA &
Shri Lekh Mehta, CA (Virtual)

प्रत्यर्थी की ओर से /Revenue by

: Shri P. Krishna Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 12.09.2024

घोषणा की तारीख /Date of Pronouncement

: 30.10.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the Revenue for Assessment Year (AY) 2020-21 arises out of the order of Learned Commissioner of Income Tax, Appeal, CIT(A), Chennai-16 [hereinafter "CIT(A)"] dated 05.03.2024 in the matter of assessment framed by the Assessing Officer [AO] u/s. 143 r.w.s 144C of the Income-tax Act,1961 (hereinafter "the Act") on 28.04.2022.

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2. The effective ground of appeal in this appeal of Revenue is against deleting the addition of salary income of Rs. 46,66,022/- made by the A.O in the assessment order.

3. The assessee is an employee of M/s. FIS Global Business Solutions India Pvt. Ltd. and has been Non-Resident during the year. The assessee has received salary of Rs. 49,85,854/- for the services rendered in Thailand and has claimed it non taxable in India in the return of income. However, the A.O has made the addition of salaried income as salary has been received in India. On appeal, the Ld. CIT(A) has deleted the addition as the income has already offered in Thailand and as per DTAA between India and Thailand the taxing right has been given to Thailand under Article 15(1) of India Thailand DTAA.

4. The Ld. Departmental Representative (DR) supporting the order of A.O has argued that the salary has been received in India and therefore, is taxable in India.

5. The Ld. Authorized Representative (A.R) of the assessee, on the other hand supported the order of Ld. CIT(A) and argued that the assessee is Non-Resident and the salary income has been offered in

Thailand and as per Article 15(1) of DTAA between India and Thailand ,the income is taxable in Thailand and therefore, the Ld. CIT(A) has correctly deleted the addition. The Ld. AR has also relied on the order of Co-ordinate Bench of this Tribunal in the case of Shri Ramesh Kumar AE vs. ITO in IT(TP)A No.51/Chny/2018 dated 11.08.2023 and other cases where on similar facts , the salary income has been held to be not taxable in India on the basis of DTAA.

6. We have heard the rival submissions, and perused the materials available on record. The assessee is a Non-Resident and has received salary of Rs. 49,85,854/- in India for the services rendered in Thailand. The Ld. CIT(A) has held that the income has been offered in Thailand and as per DTAA between India and Thailand, the salary income is taxable in Thailand as articles of DTAA overrides the provisions of the Act which has been the basis for the A.O to charge the income. The Co-ordinate Bench in the case of Nanthakumar Murugesan v. ITO [2024] 165 taxmann.com 304 (Chennai-Trib.) on similar facts has held that where assessee, NRI, an employee of a company in India, was seconded on overseas assignment to China by his employer and he received salary for services rendered in China, since said income as offered to tax in China and assessee had not claimed any foreign tax

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credit in any of jurisdiction, same would be exempt in India in light of DTAA. In view of the above, we find no infirmity in the order of Ld. CIT(A) and therefore, the appeal filed by the Revenue is dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 30th October, 2024.

Sd/-
(एबी टी. वर्की)
(ABY. T. Varkey)

न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 30th October, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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