

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “SMC”, MUMBAI
BEFORE SHRI. NARENDRA KUMAR BILLAIYA, ACCOUNTANT
MEMBER
AND
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

ITA NO. 5116/MUM/2024 (A.Y: 2014-15)

DCIT (IT) 3.1.2

Room No.603, 6th Floor, Kautilya
Bhavan, Mumbai – 400051.

(Appellant)

Assessee Represented by

Department Represented by

Date of conclusion of Hearing

Date of Pronouncement

Vs. Linklaters and Paines

C/o – Deloitte Haskins & Sells,
Tower 3, 28th - 30th Floor,
Indiabulls Finance Centre,
Senapati Bapat Marg,
Mumbai.

PAN: AABFL2160M

(Respondent)

: Shri. Ninad Patade

: Ms. Kakoli Ghosh

: 21.11.2024

: 21.11.2024

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. This appeal is filed by the appellant/assessee against the order dated 22.07.2024 of Learned Commissioner of Income Tax (Appeals), CIT(A) – 57, Mumbai [hereinafter referred to as the “CIT(A)”], passed under



section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for the A.Y. 2014-15.

2. The department is in appeal before us and has raised following grounds of appeal:

- i. *“Whether on the fact and in the circumstances of the case and in law the Ld. CIT(A4) is Justified in holding that assessee can be treated as resident of United Kingdom within the meaning of DTAA between India and UK despite the fact that it is fiscally transparent entity in UK and hence not taxable in the UK?”*
- ii. *Whether on the fact and in the circumstances of the case and in law the Ld. CIT(4) is Justified in holding that the income of the assessee is not taxable in India as it is not having any permanent establishment in term of Article – 5(2)(k)(i), without considering that the receipts of the assessee is fees for technical services as per meaning of section 9(1)(vii), Explanation 2 and therefore is taxable on gross basis under section 1154 of the Income Tax Act.*
- iii. *Whether on the fact and in the circumstances of the case and in law the CIT(A) is justified in holding that receipts from consultancy services and reimbursement does not fall in the category of fee for technical services under India-UK DTAA, without considering that the provision of DTAA between India and UK are not available fo the assessee as it is not a “person ” as per Article 3(1)(f) of the DTAA and is not a resident of any of the two contracting States within the meaning of Article 4(1) of the DTAA and was not liable to taxation in the UK.*
- iv. *Whether on the fact and in the circumstances of the case and in law the CIT(A) is justified in holding that the income from services earned by the assessee is not taxable due to absence of PE despite the provision of Explanation to section 9.”*

3. During the arguments, the Ld. DR very fairly submitted that the department appeal has become infructuous by virtue of circular no. 9/2024 dated 17.09.2024, wherein the monetary limit for tax effect for filing appeal before Income Tax Appellate Tribunal has been raised upto



Rs. 60 lacs. It is submitted that the tax effect in this appeal is below 60 lacs and as such the appeal has become infructuous and same may be disposed off accordingly.

4. We have also heard the Ld. AR on behalf of the assessee, who has supported the submissions of the Ld. DR, and stated that since the appeal is not maintainable and has become infructuous.
5. We have considered the submissions and examined the record. In view of the enhancement of the monetary limit for filing the departmental appeal wherein the tax effect for filing the appeal should be Rs. 60 Lacs or above and the tax effect in this appeal has been shown to be Rs. 19,36,359/-; in view of these facts and the submissions made by the Ld. DR, the appeal filed by the department is accordingly dismissed having become infructuous.
6. In the result, appeal filed by the department is accordingly dismissed having become infructuous.

Order pronounced on 21.11.2024

Sd/-
(NARENDRA KUMAR BILLAIYA)
(ACCOUNTANT MEMBER)

Sd/-
(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)



Mumbai / Dated 21.11.2024
Karishma J. Pawar, (Stenographer)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai