

IN THE INCOME TAX APPELLATE TRIBUNAL "C", BENCH KOLKATA
BEFORE SHRI N.V.VASUDEVAN, JM & DR. A.L.SAINI, AM
ITA No.2092/Kol/2009

(निर्धारण वर्ष /Assessment Year:2006-2007)

Maersk Line UK Limited (Formerly known as P&O Nedlloyd Limited UK), Jasmine Towers, Fourth Floor, 31, Shakespeare Sarani, Kolkata-700071	Vs.	DDIT(International Taxation)- 2(1), Kolkata
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AACCP 3162 F		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

AND

ITA No.222/Kol/2013

(निर्धारण वर्ष /Assessment Year:2002-2003)

P&O Nedlloyd , C/o. Maersk Line(India) Pvt.Ltd 401 A/B & 402 A/B, Jasmine Towers, Fourth Floor, 31, Shakespeare Sarani, Kolkata-700071	Vs.	DDIT(International Taxation)- 2(1), Kolkata
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAFFP 9550 K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

ITA No.300/Kol/2013

(निर्धारण वर्ष /Assessment Year:2002-2003)

DDIT(International Taxation)-2(1), Kolkata	Vs.	P&O Nedlloyd, C/o. Maersk Line(India) Pvt.Ltd 401 A/B & 402 A/B, Jasmine Towers, Fourth Floor, 31, Shakespeare Sarani, Kolkata-700071
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAFFP 9550 K		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri manish Kumar Kanth, AR

राजस्व की ओर से /Revenue by : Shri G.Mallikarjuna, CIT DR

सुनवाई की तारीख / Date of Hearing : 30/11/2016

घोषणा की तारीख/Date of Pronouncement 07/12/2016

ITA No.2092/09
ITA No.222/13
ITA No.300/13
M/s Maersk Line UK Ltd.
M/s P&O Nedlloyd(Firm)

आदेश / ORDER

Per Dr. Arjun Lal Saini, AM:

These captioned appeals filed by the assessee and revenue, pertaining to the assessment years 2006-07 & 2002-03, are directed against order passed by Id. Commissioner of Income Tax (Appeals)-XIX, Kolkata in Appeal No.447/CIT(A)-XIX/DDIT, Intl.Tax.2(1), Kol/08-09, dated 24.12.2008 and Appeal No.80/VI/ADIT(IT)-2(1)/10-11/Kol, dated 01.11.2012, which in turn arise out of orders passed by the Assessing Officer (AO) Under Section 143(3) of the Income Tax Act 1961, (in short the 'Act'), dated 10.11.2008, 30.12.2010 and 14.03.2005.

2. At the outset, Id. AR of the assessee has submitted an application for withdrawal of appeals i.e. ITA Nos.2092/Kol/2009 & ITA No.222/Kol/2013, on the following grounds :-

Sub: Letter for withdrawal of Appeal

We refer to the subject appeal filed against the order of the Commissioner of Income Tax (Appeals) - XIX, Kolkata dated 18 September 2009.

In connection with the same, we wish to inform your Honour that issues which are subject matter of appeal before this Hon'ble Tribunal were also pending for consideration before the Competent Authorities of India and United Kingdom/Netherlands pursuant to Mutual Agreement Proceeding (MAP) application filed.

Recently, the Appellant has received letter dated 24 August 2016 from Deputy Commissioner of Income- tax (International tax), Kolkata (DCIT) along with certified copy of MAP resolution order dated 2 August 2016 for AYs 1997-1998 to 2006-2007, issued from the office of the Competent Authority of India, Ministry of Finance wherein all the Competent Authorities have accepted that neither the firm nor the partners are taxable in India, in accordance with the provisions of Article 9 of the India - UK Double Taxation Avoidance

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Agreement (DTAA) and Article 8A of India - Netherlands DTAA. Copy of such letter is attached as Annexure 1. In response, the Appellant has submitted letter dated 24 August 2016 with the DCIT accepting resolution agreed under the MAP procedure between Competent Authorities and undertaking to withdraw all pending appeals. Copy of such letter is attached as Annexure 2.

Therefore, in compliance with the provisions of rule 44H(4)(ii) of Income-tax Rules, 1962 and in light of acceptance of the aforementioned MAP Resolution dated 2 August 2016 by the Appellant, we hereby request your Honour to allow withdrawal of subject appeal filed by the Appellant.

3. In regard to ITA No.300/Kol/2013, the revenue has filed an application for withdrawal of the appeal on the following term :-

Sub :- Department's Appeal No. 300/Kol/2013 - in the case of M/s Maersk Line UK Ltd- Reg

Kind reference is invited to the above.

In connection to the above, this is to inform you that, the issues which are subject matter of the above mentioned appeal were also pending for consideration before the Competent Authorities of India and UK/Netherlands pursuant to Mutual Agreement Proceedings (MAP) application filed by the assessee. The same resolution was mutually agreed upon by the respective Competent Authorities on 22/08/2016 (Copy enclosed).

In view of the above, the grounds of the appeal no. 300 of 2016 do not survive having become infructuous on the basis of Mutual Agreement Procedure resolution dated 22/08/2016.

In this context, you are kindly requested to allow us to withdraw the aforesaid appeal and oblige.

4. Considering the above letters of the assessee as well as Id. DR for the revenue for withdrawal of the appeals, we dismiss all the appeals filed by the assessee (i.e. ITA No.2092/Kol/09 & ITA No.222/Kol/13) as well as Revenue (i.e. ITA No.300/Kol/2013).

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5. In the result, all appeals filed by the Assessee and Revenue are dismissed.

Order pronounced in the open court on this 07/12/2016.

Sd/-
(N.V.VASUDEVAN)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(DR. A.L.SAINI)

लेखा सदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata; दिनांक Dated 07/12/2016

प्रकाश मिश्रा/Prakash Mishra,नि.स/ PS

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

1. अपीलार्थी / The Appellant- 1)Maersk Line UK Limited in ITA No.2092/K/09
 2) P&O Nedlloyd Ltd. UK in ITA No.222/K/13 &
 3) DDIT(IT)-2(1), Kolkata
2. प्रत्यर्थी / The Respondent.- 1) DDIT(IT)-2(1), Kolkata in ITA Nos.2092/19 & 222/13
 2) P&O Nedlloyd Ltd. UK in ITA No.300/K/13
3. आयकर आयुक्त(अपील) / The CIT(A), Kolkata.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार
 (Asstt. Registrar)
 आयकर अपीलीय अधिकरण, कोलकाता / ITAT, कोलकाता