

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI 'C' BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)
And Ravish Sood (Judicial Member)]**

ITA No. 591/Mum/19
Assessment year: 2014-15

Deputy Commissioner of Income Tax**Respondent**
(IT) 26(1) (1) Mumbai

Vs

Cameron Australasia PTY Ltd.,**Appellant**
C/o. Price Water House Coopers,
Plot No. 18A, PWC House, Gurnanank Road,
Bandra (W), Mumbai 400050
[PAN:AAECC0202H]

Appearances by

Kumar Padmapari Bohre *for the respondent*
Gautam THacker *for the appellant*

Date of concluding the hearing: October 3rd, 2019
Date of pronouncement : December 26th, 2019

ORDER

Per Pramod Kumar, VP:

1. By way of this appeal, the Assessing Officer has challenged correctness of the order dated 26.11.2018 passed by the learned CIT(A)-56, Mumbai for the assessment year 2014-15.

2. Grievances raised by the Assessing Officer are as follows:

1. "Whether on the facts and in circumstances of the case and in law the CIT(A) has erred in holding that income from offshore supply of products is not taxable in

India when no such onshore-offshore bifurcation is provided in the contract and the contract is composite in nature."

2. , "Whether on the facts and in the circumstances of the case and in law the Id. CIT(A) was justified in holding that payment in relation to Offshore supply is not taxable in India, wrongly relying on the decision of Supreme Court in the case Ishikawajma harima, ignoring the facts that in the case of Ishikawajma harima the contract was divisible separately in Off-shore and on-shore component, whereas, in the fact of present case, it is a indivisible contract and decision of AAR in the MERO Asia Pacific Pte Ltd. (AAR/981/20JOJ will directly apply in this case?"

3. , "Whether on the facts and in circumstances of the case and in law the CIT(A) has erred in holding held that since such repair work (and related activity) is undertaken at the overseas workstation the question of taxability of such receipts from repair work as attributable to PE does not arise and directed the AO to delete the addition made for the revenues earned by the assessee from repairs activity under ONGC contract, ignoring the crucial fact that the receipts are emanating from a composite contract?"

4. The Appellant prays that the order of the Id. CIT(A) on the above grounds be set aside and that of the Assessing Officer restored.

3. When this appeal was called out for hearing, learned counsel for the assessee submitted that the present appeal of the Revenue needs to be dismissed on account of low tax effect in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019 whereby the monetary limits for filing the appeal by the Revenue before the Tribunal was enhanced from Rs.20 lakhs to Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeal of the Revenue is liable to be dismissed as non-maintainable as held by this Tribunal in the case of **ITO Vs. Dinesh Madhavlal Patel** in ITA No.1398/Ahd/2004 for AY 1998-99 vide a consolidated order dated 14.08.2019.

4. The learned Departmental Representative fairly admitted that the tax effect involved in this appeal is less than the limit prescribed by the aforesaid CBDT Circular.

5. We have heard the rival contentions, perused the material on record and duly considered facts of the case in the light of applicable legal position. As learned counsel rightly contends, this appeal of the Revenue is no longer maintainable in view of the recent CBDT Circular No. 17 of 2019 dated 08.08.2019. The mandatory limit for cases in which Revenue can challenge the relief granted by the CIT(A) now stands enhanced to Rs.50 lakhs. This concession granted by the Central Board of Direct Taxes (CBDT) is retrospective in effect inasmuch as it applies to all pending appeals as well. In view of the above position, the appeal of the Revenue is no longer maintainable and must be dismissed as such.

6. It is, however, made clear that on re-verification at the end of the Assessing Officer it comes out that the tax effect of more than Rs.50 lakhs is being involved in the appeal or the appeal falls within the exemption clause of the Circular, then the Revenue will be at liberty to file Miscellaneous Application to recall the Tribunal order. The application should be filed within time limit prescribed in the Act.

7. In the result, appeal of the Revenue is dismissed due to low tax effect. Pronounced in the open court today on the 26th day of December, 2019

Sd/-

Ravish Sood
(Judicial Member)

Sd/-

Pramod Kumar
(Vice President)

Mumbai, dated the 26th of November, 2019

Nishant Verma Sr.PS

Copies to: (1) The appellant (2) The respondent
 (3) CIT (4) CIT(A)
 (5) DR (6) Guard File

By order

Assistant Registrar
Income Tax Appellate Tribunal
Mumbai benches, Mumbai

