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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ITA 521/2016**

THE PR. COMMISSIONER OF INCOME TAX-6..... Appellant
Through : Sh. Ruchir Bhatia, Sr. Standing Counsel
with Sh. Puneet Rai, Jr. Standing Counsel.

versus

MANTEC CONSULTANTS PVT. LTD. Respondent
Through : Sh. Amit Bhagat with Sh. B.B. Bhagat,
Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **05.09.2016**

The revenue urges two questions of law, i.e. whether the sum of ₹21,83,306/- paid to one Sh. I.S. Barara [hereafter “Sh. Barara”] amounted to “fees for managerial or consulting services” as to fall within the mischief of Explanation 7 to Section 9(1) of the Income Tax Act, 1961 and consequently whether the sum of ₹16,84,727/- paid as salary was likewise exempted from tax.

The Assessing Officer (AO) in the present case had disallowed the two amounts claimed by the assessee for AY 2009-10. The assessee is an exporter and had, in the course of the assessment proceedings contended that the amounts paid to Sh. Barara constituted commission for procuring export orders and that the sum of ₹16,84,727/- paid to Sh. I.S. Barara was also for rendering services abroad. The AO had directed the disallowance of both the amounts and brought them to tax.

The CIT(A) apparently accepted the assessee’s contentions and

restricted the latter addition to only ₹6,75,906/-. The ITAT, however, granted full relief on the ground that the facts and circumstances were clearly covered by the ruling in *CIT v. Angelique International Limited* 219 Taxmann 104.

It is submitted on the first question that the AO had correctly disallowed the amounts because there was no material to say that Sh. Barara in fact acted merely as a procurer of orders. The amount was clearly income in his hand and had to be added back. The assessee's counsel appearing on advance notice points out that Sh. I.S. Barara was an NRI; on this, there appears to be no dispute. *Angelique (supra)* as in fact the other decision relied upon by the ITAT in *DCIT v. Panlafa Electrical Ltd.* 227 Taxmann 251 clarified that amounts paid for the purposes of securing export orders do not fall within the mischief of Section 9(1) and cannot be treated as fee for managerial or consultancy services. We see no reason to depart from that case although the revenue urges that the CIT(A) did not discuss the issue elaborately.

So far as the second question is concerned, we notice that even the CIT(A) had granted partial relief and restricted relief to ₹6,75,906. In the circumstances, there is no tax effect to warrant admission of the above appeal. In any event, no substantial question of law arises.

The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 05, 2016/ajk