IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 897 OF 2015

Commissioner of Income Tax(IT)-3 .. Appellant

v/s.

Linklaters
(Formerly Linklaters&Paines) .. Respondent

Mr. Tejveer Singh for the appellant
Mr. Anay Banhatti a/w Ms. Virangana Wadhwan i/b Economic Law Practice for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.

DATED : 7th MARCH, 2018.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 8th August, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 1997-98.

2. The Revenue has urged only following question of law :-

Whether on the facts and circumstances of the case and in law, the Tribunal was right in holding that the partnership firm is eligible for treaty benefits in the source country even though it is not taxable in its own right in the resident country?

3. The impugned order of the Tribunal following the order of its co-ordinate bench for Assessment Year 1995-96 has held that the partnership firm would be eligible to the benefit of INDO-UK Double Tax Avoidance Agreement (DTAA).

4. Mr. Tejveer Singh, learned Counsel for the Revenue very fairly states that the appeal filed for A.Y. 1995-96 by the Revenue in *Director of Income Tax (IT)-II Vs. M/s. Linklaters* (Income Tax Appeal No.1156 of 2011) has been dismissed by this Court on 30th April, 2014. However, while doing so this Court had left this issue open for the Revenue to agitate in the appeal filed by the assessee for the Assessment Year 1995-96 being M/s. Linklaters Vs. Dy. Director of Income Tax (Income Tax Appeal No.6384 of 2010), which was admitted on 30th April, 2014.

5. For the subject assessment year i.e. A.Y. 1997-98, the appeal of the respondent assessee being M/s. Linklaters Vs. The Dy. Director of Income Tax (Income Tax Appeal No.276 of 2015) has been admitted on 10th July, 2017.

6. Therefore, for the reasons recorded in our order passed in

Income Tax Appeal No.1156 of 2011 dated 30th April, 2014, we dismiss this appeal by the Revenue. However, the issue as raised by the Revenue herein is left open to be agitated by it in the assessee's appeal, being Income Tax Appeal No.276 of 2014.

7. We clarify that all contentions of the parties are kept open.

8. Appeal disposed of in the above terms.

(SANDEEP K. SHINDE, J.) **(M.S. SANKLECHA, J.)**