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

INCOME TAX APPEAL NO. 1193 of 2015

Commissioner of Income Tax(IT)-1
Mumbai .. Appellant

v/s.
BNP Paribas SA .. Respondent

Mr. Charanjeet Chanderpal a/w Ms. Namita Shirke for the appellant
Mr. F.V. Irani i/b Mr. Atul Jasani for the respondent

CORAM : M.S. SANKLECHA &
SANDEEP K. SHINDE, J.J.
DATED : 13th MARCH, 2018.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 21st November, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 2007-08.

2. The Revenue has urged only the following re-framed question of law for our consideration : -

> *(i) Whether on the facts and circumstances of the case, the Tribunal was justified in holding that the payment of data processing fees paid by the assessee to its overseas branch at Singapore is in the nature of income and are not liable to tax ?*

3. The question as proposed has became academic in view of the fact that the alternative submission made by the respondent before the authorities was that the payment made to its overseas branch at Singapore in respect of the data processing fees was really in the nature of reimbursement. The impugned order of the Tribunal has on facts found that the payment made by the respondent assessee to it overseas branch at Singapore was in the nature of reimbursement of expenses. The aforesaid findings of fact by the Tribunal is not the subject matter for challenge before us by the Revenue. It is also an agreed position between the Counsel that the issue of reimbursement of expenses is now in similar circumstances been held that to be chargeable to tax by the Apex Court in ***Director of Income Tax Vs. A.P. Moller Maersk A/S, 392 ITR 186***.

4. In the above view, the question of law as proposed being academic, does not give rise to any substantial question of law. Therefore, not entertained.

5. Appeal is dismissed. No order as to costs.

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