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

INCOME TAX APPEAL NO. 1557 OF 2017

Commissioner of Income Tax (IT-4) … Appellant

V/s.

WNS North America Inc. ... Respondent

Mr. Tejveer Singh for the Appellant
Ms. Porus Kaka, Senior Advocate a/w. Mr. Manish Kanth i/b. Mr. Atul Jasani for the Respondent

CORAM : NITIN JAMDAR & M.S. KARNIK, JJ.

DATE : 09 JANUARY 2020.

P.C. **:-**

Heard learned Counsel for the parties.

2. The Appeal pertains to Assessment Year 2008-09.

3. This Appeal under Section 260A of the Income Tax Act, 1961 challenges the order of the Income Tax Appellate Tribunal (Tribunal) dated 18 November 2016.

4. The Appellant – Revenue has framed following question as a substantial question of law :-

" Whether on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal was justified in holding that reimbursement of international telecom connectivity charges amounting to Rs.8,25,12,826/- by WNS India does not qualify as "Royalty" under Article 12(3)(b) of the India-USA DTAA ?"

5. The learned Counsel for the parties have fairly brought to our attention that this question of law in Assessee's own case has been held against the Appellant – Revenue in order dated 7 February 2018 in Income Tax Appeal Nos. 890 of 2015 and 891 of 2015. In view of this position, the question as framed do not give rise to any substantial question of law. The Appeal is accordingly dismissed.

6. Before closing, we may note the contention advanced by the learned Senior Advocate for the Respondent that there is a concurrent finding by the Commissioner (Appeals) and the Tribunal that the amounts are pure reimbursements and in view of this finding of fact and in view of the decision of the Apex Court in the case of *Director of Income-Tax (International Taxation v/s. A.P. Moller Maersk A/S - (2017) 392 ITR 186 (SC),* the question as proposed does not give rise to any substantial question of law.

M.S. KARNIK, J. **NITIN JAMDAR, J.**

Jyoti P. Pawar

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