OD-24

ITA/50/2018
IA No.GA/2/2022

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

COMMISSIONER OF INCOME TAX
(INTERNATIONAL TAXATION & TRANSFER)

-Versus-

GIFFORD & PARTNERS LTD.

Appearance:
Ms. Smita Das De, Adv.
...for the appellant.

Mr. Arani Ghosh, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 6th June, 2022.

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the 'Act' for brevity) is directed against the consolidated order dated 6th April, 2016 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata in ITA No.2082/Kol/2010 for the assessment year 2007-08 and ITA No.1489/Kol/2011 for the assessment year 2005-06.

The appeal was admitted on 18th May, 2011 to decide the following question of law:

"What would be the parameters for any termporary place where a non-resident may be working in India to be regarded as its "permanent establishment" within the meaning of the Income Tax Act, 1961 ?"

We have heard Ms. Smita Das De, learned standing counsel appearing for the appellant/revenue and Mr. Arani Ghosh, learned Advocates for the respondent/assessee.

We find that the respondent/assessee has taken out an application in GA No.2/2022 with a prayer to dismiss the appeal as not maintainable for want of jurisdiction in the light of circular No.17 of 2019. Ms. Das De, learned Counsel appearing for the appellant has produced a copy of the written instructions given to her by Dr. Ranjan Agarwala, DCIT (International Taxation), Circle 1(1) Kolkata which is to the following effect :

"The tax effect in the case of the assessee are Rs.53,50,065/- for the AY 2005-06 and Rs.70,96,715/- for the AY 2007-08. As the tax effect in the above cases are less than the threshold limit as given in CBDT Circular No. 17/2019 dated 08-08-2019 and those cases does not fall in any of exceptions, therefore, the pending appeals before the Hon'ble High Court, Kolkata may be withdrawn."

In the light of the above stand taken by the appellant, the appeal is dismissed as withdrawn. Consequently, the substantial question of law is left open.

In the result, the connected application (IA No.GA/2/2022) also stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Das /As