IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case Appeal No.314 of 2024

Commissioner of Income Tax
International Taxation, Chennai. ... Appellant

Vs.

M/s.Temenos Headquarters SA
No.2, Rue De Lecole De
Chime, 1205 Geneva
Switzerland-1205,
PAN: AADCT-7868H ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai 'B' Bench, Chennai, dated 12.06.2024 made in ITA No.1575/CHNY/2023.

For Appellant : Mr.Karthik Ranganathan
Senior Standing Counsel

JUDGMENT
(Delivered by R.SURESH KUMAR, J.)

This Tax Case Appeal has been filed by the Revenue calling in question the correctness of the order passed by the Income Tax Appellate Tribunal, Chennai 'B' by raising the following substantial questions of law:

"(i) Whether the learned ITAT is correct in law in dismissing the Revenue's appeal holding that there is no need to withhold u/s.195 on the expenses in respect of seconded employees reimbursed to the foreign AE when the assessee has deducted tax at source u/s 192 on the salary payments made to such expatriated employees?

(ii) Whether on the facts and in the circumstances of the case and in law, the learned ITAT was right in ignoring the various clauses of the agreement which signified that the overseas entity through the employees rendered technical, managerial and consultancy services, thus satisfied FTS as per the provisions of Section 9(1)(vii) of the Act and also under DTAA?

(iii) Whether on the facts and in the circumstances of the case, the learned ITAT is right in law in deleting the disallowance of sum of Rs.28,09,09,809/- made by assessing authority under Section 40(a)(i) without considering the merits of the case?

(iv) Whether the learned ITAT is correct in law in holding that depreciation on software license is also entitled for depreciation @ 60% as for the computer?"

2. It is brought to our notice by the learned Standing Counsel for the

appellant Revenue that in the instant case, as per the CBDT's Circular No.9 of 2024 dated 17.09.2024 the tax effect is said to be less than the monetary limit imposed and therefore, the appeal can be disposed of, keeping the substantial questions of law raised in this appeal open for adjudication at a later point of time.

4. Recording the said submission, this Tax Case Appeal is dismissed for low tax effect, keeping open the substantial questions of law for adjudication at appropriate stage. No costs.

(R.S.K.,J.) (C.S.N.,J.)
16.12.2024

NCS : Yes/No
Index : Yes/No
KST

To

The Income Tax Appellate Tribunal
'B' Bench, Chennai.

R.SURESH KUMAR, J.

AND
C.SARAVANAN, J.

KST

T.C.A.No.314 of 2024

16.12.2024