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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 568/2024 CM APPL. 72808/2024**

THE COMMISSIONER OF INCOME

TAX - INTERNATIONAL TAXATION -3

.....Appellant

Through: Mr Ruchir Bhatia, SSC, Mr Anant Mann, JSC and Mr Abhishek Anand, Advocate.

versus

SALESFORCE.COM SINGAPORE PTE. LTD.

.....Respondent

Through: Mr Vishal Kalra, Advocate.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

12.12.2024

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1. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 (hereafter *the Act*) impugning an order 17.05.2024 (hereafter *the impugned order*) passed by the learned Income Tax Appellate Tribunal (hereafter *the ITAT*).

2. It is material to note that the said impugned order is a common order in respect of four appeals concerning the assessment years (AY 2018-19 to AY 2021-22). The present appeal is confined to the impugned order in so far as it relates to the Assessee's appeal being ITA No. 3347/DEL/2023 in respect of the AY 2021-22. The controversy involved in the present appeal relates to the payments received by the Assessee for providing Customer Relationship Management (CRM) Services. According to the Revenue, the payment for the said services is chargeable to tax as fees for technical services under the Act as well as under the India-Singapore Double Taxation Avoidance Agreement (DTAA). The learned ITAT examined the issue and following the decision in respect of the earlier AYs, held that the receipts were not chargeable as fees for technical services.

3. In the aforesaid context, the Revenue has projected the following questions for consideration of this court:-



“1. Whether Ld. ITAT has erred in law by holding that the payments received on account of subscription fees does not constitute Fee for Technical Services under Explanation to section 9(l)(vii) of the Act or under sub Article (4) of the Article 12 of the India- Singapore DTAA ignoring that services provided by Assessee includes Customer Relationship Management Software to customers enabling better operational efficiency for the business and thus fulfilling conditions of Article 12(4) of the India- Singapore DTAA and section 9(l)(vii) of the Act?

2. Whether Ld. ITAT has erred in law by holding that the subscription fee received is not taxable as Fee for Technical services under India-Singapore DTAA ignoring the fact that CRM software solutions was made available to the Indian customer users, so that they can use this data analysis independently without the support of services company and training is also provided to employees to Indian customer -users for the same, which is in the nature Fees for technical services under India Singapore DTAA?”

4. Mr. Bhatia, the learned counsel for the revenue states, at the outset, that the aforesaid questions are covered by the decision of this court in Assessee’s own case for the earlier assessment year - ***Commissioner of Income Tax v. Salesforce.com Singapore Pte. Ltd.: (2024) 465 ITR 257.***

5. In view of the above, no substantial question arises for consideration of this court.

6. The appeal is, accordingly, dismissed. Pending application also stands disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 12, 2024

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[Click here to check corrigendum, if any](#)