

**आयकर अपीलिय अधिकरण “बी” न्यग्रपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**मजनीय श्री महवीर सिंह, उपध्यक्ष एव**  
**मजनीय श्री मनोज कुमार अग्रवाल, लेखसदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं ITA No.316/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2015-16)**

**&**

**Stay Application No.32/Chny/2023**  
**(In ITA No.316/Chny/2023)**  
**(निर्धारण वर्ष / Assessment Year: 2015-16)**

<b>M/s. Bengal Tiger Line Pte.Ltd.</b> 200, Cantonment Road, 1301, South Point, Singapore.	<b>बन</b> / Vs.	<b>DCIT</b> International Taxation-1(1) Chennai-600 006.
<b>स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AADCB-6864-F</b>		
<b>(पीलार्थी/Appellant)</b>	<b>:</b>	<b>(प्रत्यर्थी / Respondent)</b>

<b>अपीलार्थीकी ओरसे/ Appellant by</b>	<b>:</b>	<b>Shri S.P. Chidambaram (Advocate)-Ld.AR</b>
<b>प्रत्यर्थीकी ओरसे/Respondent by</b>	<b>:</b>	<b>Shri Nandakumar (CIT)-Ld. DR</b>

<b>सुनवाईकी तारीख/Date of Hearing</b>	<b>:</b>	<b>17-10-2023</b>
<b>घोषणाकी तारीख /Date of Pronouncement</b>	<b>:</b>	<b>19-10-2023</b>

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2015-16 arises out of final assessment order passed by Ld. Assessing Officer, [AO] u/s.143(3) r.w.s 147 r.w.s 144C(13) of the Act on 27-01-2023 pursuant to the directions of Ld. Dispute Resolution Panel-2, Bengaluru u/s 144C(5) dated 14-11-2022. The appeal is accompanied by stay

application wherein the assessee is seeking stay of recovery of outstanding demand by the revenue.

2. During hearing, it transpires that the assessee has assailed the reassessment proceedings, inter-alia, on the legal ground that there was no escapement of income since document as well as Vessel handling charges were already offered to tax by the Indian entity. The assessee assails the issue on merits by relying upon Article-8 of India-Singapore DTAA. The Ld. DRP has dismissed the objections of the assessee by relying upon earlier DRP order for AYs 2012-13, 2013-14, 2016-17 & 2017-18.

3. The undisputed position that emerges is that the assessee assailed the final assessment order for AYs 2012-13, 2013-14, 2016-17 & 2017-18 before this Tribunal wherein the appeals have been allowed by the Tribunal on legal grounds as well as on merits vide IT(TP) Nos.18/Chny/2021 & ors., common order dated 04-05-2023. A copy of the same has been placed on pages nos. 331 to 399 of the paper-book. This position could not be controverted by revenue before us. The Ld. AR pleaded that the issue is squarely covered in assessee's favor.

4. Upon perusal of case records and after considering the cited decision of Tribunal, the bench concurs with the submission of Ld. AR that the issue on legal grounds as well as on merits is covered in assessee's favor and there is no change in material facts. The bench, in paras 11 to 16 of the order, has held that the reassessment proceedings as well as consequential assessment framed therein are unsustainable in law and accordingly, liable to be quashed. The issue, on merits, has been dealt with by the bench in paras 17 to 28 of the order. It has finally been held that the assessee would be entitled for

the benefit of Article-8 of the treaty and the impugned charges would not be taxable in India in the hands of the assessee. Therefore, facts and circumstances being the same, taking the same view, we allow the legal grounds as well as grounds on merits. The appeal stand allowed which render the stay application infructuous. The Ld. AO is directed to re-compute the income of the assessee and allow credit of taxes in accordance with law.

5. The appeal stand allowed. The stay application stand dismissed as infructuous.

*Order pronounced on 17<sup>th</sup> October, 2023.*

**Sd/-**  
**(MAHAVIR SINGH)**

उपाध्यक्ष / **VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 17-10-2023

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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. भागीयप्रतिनिधि/DR
5. गार्डफाईल/GF