

ITAT allows taxpayer to file additional evidence to claim exemption for salary received on UK assignment

Summary – The Chennai ITAT in a recent case of Ravishankar Rajendran, (the Assessee) held that where assessee, a non-resident, employed by an Indian company, filed some additional evidence before Tribunal in support of his claim that salary income received by him was not taxable in India, since said evidence were not available before authorities below, matter was to be remanded back for disposal afresh

Facts

- During relevant year, the assessee was an employee of the company IBM India. He was on international assignment to United Kingdom ('UK'). He filed his return of income claiming the status of 'non-resident individual'. The assessee claimed that the salary received from IBM India was not taxable in India. Therefore, he claimed refund of tax deducted at source.
- The revenue authorities opined that the assessee was paid at the home location of the company *i.e.* India and the assessee had not independently earned any income outside India. The assessee earned salary income in India from his employer for the services rendered at UK and therefore, the salary earned in India was taxable as per section 5(2). It was further concluded that since the assessee was a non-resident, he was a not eligible to claim exemption under article 16(1) of the DTAA.
- In the course of appellate proceedings, the assessee sought for permission for filing of additional supporting evidence by stating that the foreign allowances were received by the assessee outside India.

Held

- The additional evidence filed before the Tribunal were not filed before the authorities below. Thus, matter is remitted back to the Assessing Officer to verify the evidences filed by the assessee and decide the issue afresh. Accordingly, the ground raised by the assessee is allowed for statistical purposes.