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BEFORE THE AUTHORITY FOR ADVANCE RULINGS (INCOME TAX)
NEW DELHI

30th Day of November, 2015

A.A.R. No. 1602 of 2014

PRESENT

Justice Mr V.S. Sirpurkar, Chairman
Mr. A.K. Tewary, Member (Revenue)
Mr. R.S. Shukla, Member (Law)

Name & address of the applicant	Tiong Woon Project & Contracting (Pte) Limited, 15 Pandan Street, Singapore -128470.
Present for the applicant	Mr.K.Meenakshi Sundaran, FCA
Present for the Department	Ms Sukhvinder Khanna, CIT-DR,AAR,ND Mr. S.S. Negi, JCIT-DR, AAR, ND Mr. Sachin Dhania, DCIT-DR(AAR),ND

R U L I N G
(V.S.Sirpurkar)

The applicant is Tiong Woon Project & Contracting (Pte) Limited, 15 Pandan Street, Singapore.

2. The Applicant is engaged in the business of heavy lifting and erection and installation of heavy equipments such as boilers, coke drums, fractionators, generators, chimneys, etc., for large projects at the project sites. It is carrying out its activities in many countries in Asia.

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3. The Applicant imported two cranes viz., CC8800 and CC2600 into India in November 2007. Based on the advance ruling obtained in AAR No.975 of 2010, the following are the questions on taxability of certain projects executed by the Applicant in India.

4. The questions posed are:-

1. Whether looking to the nature of activities carried on by the Applicant, which is a Singapore based company and a non-resident as per provisions of section 6(3) of the Income Tax Act, 1961, the Applicant can be held to have earned any income taxable in India from its activities of execution of "Installation Project" referred herein, as per the provisions of Income Tax Act, 1961?

2. If the answer to the above question is affirmative, how the total income of the Applicant should be computed as per the provisions of the Income Tax Act, 1961?

5. In the application, it is stated, the applicant completed their installation project, which is covered by Article 5.3 of the India-Singapore Treaty. In fact, the applicant relies on the earlier Ruling by this Authority in AAR No.975 of 2010 and particularly in para 6 therein. Accordingly, the applicant claims that the income amounts to business profits, in terms of Article 7 of the Double Taxation Avoidance Agreement (DTAA) between India and Singapore. It is the claim of the applicant that they do not have any Permanent Establishment (PE) in India. It is, further, their claim that since this installation project continued for a period of less

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than 183 days in India, it would not be taxable under Article 7 of the DTAA unless they have a PE in India.

6. In their response, the department in their report dated 7.7.2014 have reiterated as under:-

> *6.2.4 Since the project executed by the applicant in India for Brahmaputra continued only for 178 days in a fiscal year and as the duration of the project is less than 183 days in a fiscal year, Permanent Establishment of the applicant cannot be constituted in India for the FY 2012-13 as per the provisions of Article 5.3 of the India-Singapore DTAA.*
>
> *6.2.5 Hence, it is submitted that the business profits accruing or arising to the applicant by way of the execution of the project under reference is taxable only in the country where the applicant is a resident, as per Article 7.1 of India-Singapore DTAA.*

7. In view of this positive response by the department, it is held that the income earned shall not be taxable in India. On this basis, the application is directed to be disposed of.

(A.K. Tewary) **Member (R)**	**(V.S. Sirpurkar)** **Chairman**	**(R.S. Shukla)** **Member (L)**