

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**ITA No.142 of 2013 (O&M)
Date of decision: 26.8.2015**

**The Commissioner of Income Tax (TDS), Chandigarh
.....Appellant.**

**M/s Ivy Health Life Sciences Pvt. Limited, Mohali,Punjab
.....Respondent**

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Yogesh Putney, Advocate for the appellant.

Mr. Pankaj Jain, Sr. Advocate with Mr.Divya Suri,
Mr. Sachin Bhardwaj, Mr. Deepanshu Jain and Mr. Madhur
Sharma, Advocates for the respondent in ITA Nos. 142 and 143 of
2013.

Ms.Radhika Suri, Sr. Advocate with Ms. Rinku Dahiya, Advocate
for the respondent in ITA Nos.156, 159 and 160 of 2014.

Mr. Chanchal K.Singla, Advocate for the respondent in ITA
No.157 of 2014.

Ajay Kumar Mittal,J.

1. This order shall dispose of a bunch of six appeals viz. ITA
Nos.142, 143 of 2013, 156, 157, 159 and 160 of 2014 as learned counsel for
the parties are agreed that the issue involved in all the appeals is identical.

However, the facts are being extracted from ITA No.142 of 2013.

2. ITA No.142 of 2013 has been preferred by the revenue under Section 260A of the income Tax Act, 1961 (in short, “the Act”) against the order dated 16.10.2012, Annexure A.3 passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'A', Chandigarh (in short, “the Tribunal”) in ITA No.731/CHD/2012 for the assessment year 2009-10. This appeal was admitted on 22.1.2014 by this Court to consider following substantial questions of law:-

“i) Whether on the facts and in the circumstances of the case, the learned ITAT has erred in treating chargeability of payments made to doctors who are regular employees of the hospital as per the provisions of Section 194J of the Income Tax Act, 1961 instead of Section 192 of the Income Tax Act, 1961?

ii) Whether on the facts and in the circumstances of the case, the learned ITAT is right in law in holding that there does not exist an employer/employee relationship between the doctors and the hospital and the assessee is not liable to make deduction of tax at source under section 192 of the Income Tax Act?

iii) Whether on the facts and in the circumstances of the case, the findings recorded by the learned ITAT are perverse and contrary to the material available on record and sustainable in the eyes of law?”

3. A few facts relevant for the decision of the controversy involved as narrated in ITA No.142 of 2013 may be noticed. The respondent assessee, a private limited company is running a hospital under the name and style of Ivy Hospital at Mohali, Punjab. A survey under Section 133A of the Act was carried out by TDS unit of the department on 28.9.2011 and it was noticed that the respondent hospital was running different OPDs apart from indoor patients treatment. The procedure for treating patients in OPD is that when a

patient comes for treatment, he deposits a consultation fee for a particular medical department in which he wants to consult at the cash counter of the hospital where he is given a receipt for it and then he consults the doctor to whom he wants to consult. The concerned doctor prescribes the treatment on the Hospital's letter pad. If the patient is to be admitted in the hospital for indoor treatment, then he is admitted for treatment. The working days and hours of the doctors in OPD of the hospital are fixed as per contract between these doctors and the hospital. They are not allowed to do their own practice or work with another hospital during the period for which they are engaged with the hospital. Apart from these doctors, there are some doctors who attend the hospital on call. Thus the respondent has employed these professional doctors as their employees to provide full time services to the patients as per contract for service entered with them. The respondent company deducted tax under Section 194J of the Act from the payments made to them treating the payments as professional fees instead of salaries. The Assessing Officer concluded that there existed an employer and employee relationship between the respondent company and the doctors and held that tax should have been deducted under section 192 of the Act and not under Section 194J of the Act. He accordingly created a demand for differential tax and also charged interest under Section 201(1A) of the Act vide order dated 13.1.2012, Annexure A.1. The differential amount came to ₹ 16,30,770/- as tax and ₹ 7,40,121/- as interest. Aggrieved by the order, the assessee filed appeal before the Commissioner of Income Tax (Appeals) [CIT(A)]. Vide order dated 30.4.2012, Annexure A.2, the appeal was allowed holding that the doctors enjoy complete professional freedom; they

define working protocol; have free hand in treatment of patients and there is no control of the hospital by way of any direction to them on the treatment of patients. There exists no employer employee relationship. The department went in appeal before the Tribunal. Vide order dated 16.10.2012, Annexure A.3, the Tribunal dismissed the appeal. Hence the instant appeal by the revenue.

4. We have heard learned counsel for the parties.

5. Learned counsel for the revenue submitted that it is the nature of receipt in the hands of the doctors and whether relationship of employer and employee existed was required to be seen in order to determine the controversy involved. It was urged that the payment made to the doctors was in the nature of salary and was governed by the provisions of Section 192 of the Act. The claim made by the assessee that the amount which was paid fell under Section 194J of the Act being professional charges and tax at source was to be deducted at the rate provided thereunder, was erroneous. Support was drawn from judgments in *CIT vs. Dr. (Mrs.) Usha Verma and others*, (2002) 254 ITR 404 (P&H), *Ram Prashad vs. CIT*, (1972) 86 ITR 122(SC) and Karnataka High Court in *CIT vs. M.S.P. Rajes*, (1993) 202 ITR 647. It was urged that control test and supervisory test would be applicable in the case of doctors as was noticed by the Bombay High Court in *CIT vs. Grant Medical Foundation High Court of Bombay*, (2015) 116 DTR Judgments 45. *Workmen of Nilgiri Coop.Mkt. Society Limited vs. State of Tamil Nadu and others*, 2004(2) RSJ 466 (SC) was cited to enumerate the essential conditions to be seen for determining the employer-employee relationship.

6. Learned counsel for the assessee on the other hand controverted the submissions made by the learned counsel for the revenue. Reference was also made to Explanation to Section 194J of the Act to urge that there was distinction between contract of service and contract for service. Reliance was placed on judgments in ***Dharangadhra Chemical Works Limited vs. State of Saurashtra and others***, AIR 1957 SC 264, ***Commissioner of Income Tax Bombay City vs. Mrs. Durga Khote***, (1952) 21 ITR 23 (Bom.), ***CIT vs. Grant Medical Foundation (Ruwi Hall Clinic)***, (2015) 375 ITR 49 (Bom.), ***CIT vs. Apollo Hospitals International Limited***, (2013) 359 ITR 78 (Guj.), ***CIT vs. Yashoda Super Specialty Hospital***, (2014) 365 ITR 356 (AP), ***Hindustan Coca Cola Beverage Pvt. Limited vs. CIT***, (2007) 203 ITR 226 (SC) and ***CIT vs. Rishikesh Apartment Cooperative Housing Society Limited***, (2002) 253 ITR 310 (Guj.). Support was also gathered from pronouncement of Apex Court in ***Gestetner Duplicators (P) Limited vs. CIT***, (1979) 117 ITR 1 (SC), this Court in ***CIT vs. Deep Nursing Home and Children Hospital, Ludhiana***, ITA No.169 of 2007 decided on 4.10.2007, Calcutta High Court in ***ITO vs. Calcutta Medical Research***, 2001(75) ITD 484 (Cal.) and Delhi High Court in ***CIT vs. Maruti Udyog Limited***, (2012) 66 DTR 201.

7. It would be expedient to reproduce relevant statutory provisions i.e. Sections 192(1) and 194J of the Act, which read thus:-

“**192.** (1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made,

on the estimated income of the assessee under this head for that financial year.

194J. (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

(a) fees for professional services, or

(b) fees for technical services, or

(ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under [section 192](#), to a director of a company, or

(c) royalty, or

(d) any sum referred to in clause (va) of [section 28](#),

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax on income comprised therein :

Provided that no deduction shall be made under this section —

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—

(i) thirty thousand rupees, in the case of fees for professional services referred to in clause (a), or

(ii) thirty thousand rupees, in the case of fees for technical services referred to in clause (b), or

(iii) thirty thousand rupees, in the case of royalty referred to in clause (c), or

(iv) thirty thousand rupees, in the case of sum referred to in clause (d) :

Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of [section 44AB](#) during the financial year immediately preceding the financial year in which such sum by way of fees for professional services or technical services is credited or paid, shall be liable to deduct income-tax under this section :

Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

Explanation.—For the purposes of this section,—

(a) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of [section 44AA](#) or of this section;

(b) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of [section 9](#);

(ba) "royalty" shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of [section 9](#);

(c) where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

8. A plain reading of the above provisions shows that section 192

of the Act provides for deduction of income tax on the amount payable as salary at the average rate of income tax computed on the basis of the rates in force for the financial year in which the payment is made. Under Section 194J of the Act, any person not being an individual or a Hindu undivided family who is responsible for paying to a resident any sum by way of fees for professional or technical services shall deduct an amount equal to ten percent of such sum as income tax on the income comprised therein.

9. To resolve the controversy raised in these appeals, necessarily, it will be required to be seen whether the agreement between the assessee and the concerned doctors was a 'contract for service' or a 'contract of service'. In case, it is 'contract for service', the income of the doctors would fall under the head 'income from business or profession' whereas under 'contract of service, it would partake the character of salary which is dependent upon master-servant relationship. It is always a vexed question to determine whether employer-employee relationship exists between the parties or not. There is no strait jacket formula prescribed under any statute or by any pronouncement on the basis of which it could be said that in a given eventuality, it would be characterized as employer-employee relationship. It is dependent upon several factors taken together which would result into such relationship. Besides the control/supervisory test and the organization test, the Apex Court in *Workmen of Nilgiri Coop. Marketing Society Limited's* case (supra), observed that the question whether the relationship between the parties is one of the employer and employee is a pure question of fact. It was also noticed that control test and the organization test are not the only factors whereas several other factors

such as (a) who is the appointing authority; (b) who is pay master; (c) who can dismiss; (d) how long alternative service lasts; (e) the extent of control and supervision; (f) the nature of the job e.g. whether it is professional or skilled work; (g) nature of establishment; (h) the right to reject, are also required to be scanned before arriving at the conclusion of employer-employee relationship.

10. We now proceed to examine the judicial precedents on the subject. In *Dharangadhra Chemical Works Limited vs. State of Saurashtra and others*, AIR 1957 SC 264, while discussing employer-employee relationship, the Apex Court observed thus:-

“9. The principles according to which the relationship as between employer and employee or master and servant has got to be determined are well settled. The test which is uniformly applied in order to determine the relationship is the existence of a right of control in respect of the manner in which the work is to be done. A distinction is also drawn between a contract for services and a contract of service and that distinction is put in this way: " In the one case the master can order or require what is to be done while in the other case he can not only order or require what is to be done but how itself it shall be done." (Per Hilbery, J. in *Collins v. Hertfordshire County Council*).”

11. The issue before the Bombay High Court in *Commissioner of Income Tax, Bombay City vs. Mrs. Durga Khote*, (1952) 21 ITR 23, was whether the income of assessee, a film actress should be computed under Section 7 or Section 10 of Indian Income Tax Act, 1922. It was held that the assessee's income arose out of the practice of her profession of a film actress and must therefore be computed under Section 10 and not under

Section 7 of the said Act.

12. In *Commissioner of Income Tax (TDS) vs. Grant Medical Foundation (Ruby Hall Clinic)*, (2015) 375 ITR 49 (Bom), again the Bombay High Court observed that in case of doctors with fixed pay and tenure, the amount paid to them constituted salaries. In relation to the second category of doctors drawing fixed plus variable pay with written contracts, after noticing the terms and conditions, the conclusion of the Tribunal was upheld that neither of the doctors was entitled to provident fund or any terminal benefits. Both were free to carry on their private practice at their own clinic or outside hospitals but beyond the hospital timings. In such circumstances, they were not employees but independent professionals. The amounts paid to them did not amount to salary. Similarly, in relation to other doctors where the remuneration was variable and there was a written contract or no written contract, it was recorded that the amounts paid to them did not amount to salary. It was observed that it will depend upon facts and circumstances of each case after looking to the conditions of engagement whether there is master-servant or employer-employee relationship or not and it cannot be laid down as absolute rule or principle of general application.

13. In *Commissioner of Income Tax (TDS) vs. Apollo Hospitals International Limited*, (2013) 359 ITR 78 (Guj.), while concurring with the findings recorded by the Tribunal, the Gujarat High Court recorded as under:-

“5.1. In the impugned order, the Tribunal has elaborately considered the aspect whether the agreement between the assessee and 15 doctors was a contract of service or it was a

contract for service. The Tribunal observed as under:

6. ...Undisputed fact is that there are two types of Agreements. One of the covenant is stated to be in the nature of employer/employee agreement and the other is stated to be Fixed Salary & Guarantee Money to Consultants (in short FGCs) contract. Before us the terms & conditions of both the agreements were recited. Evidently there is a distinction. The distinction as pointed before us can be stream lined in short as under:

(a) In case of 'employee doctors' there is a list of allowances such as Basic, HRA, Trans. Allw. Edu. Allw. B&P Allw. Tel. Allw. Other Allw. On the other hand, in case of 'consultant doctors' there is a clause of lump-sum monthly payment. The consultant doctors, however, are not paid any such allowance.

(b) In the case of 'employee doctors' there is a clause of entitlement of leave prescribed for a specific period, however, there is no such condition mentioned in case of agreement with the 'consultant doctors'.

(c) An 'employee doctor' is entitled for Medical Benefit and Personal Accident Benefit provided by the assessee as per the policy of the hospital.

Contrary to this there is no such benefit granted to the 'Consultant Doctors'.

(d) There is a specific mention of General Service Rules & Regulation to govern the service matters, but in the agreement of FGCs they are not governed by such Rules and Regulations, rather they were confined within the terms of the agreement.

(e) For 'Employee Doctors' the employment is full-time employment and they are not entitled for any other full time employment or private practice. On the other hand consultant doctors are free to do any other job.

(f) In case of Consultant Doctors, there is a clause of fixed "GuaranteeMoney" per month, but alongwith this amount there is a clause of sharing of receipts with the hospital. This clause of agreement states that the arrangement is "fee for service" and the hospital is entitled to collect the amount to be shared between the two. However, there is no such clause for regularly employed doctors.

(g) The Consultant Doctors were required to take Professional Indemnity Insurance on their own.

(h) The Consultant Doctors were not employed by Service Rules and Regulations but they were expected to follow the Code of Conduct and Ethics of Doctors.

It was further observed:

"To determine whether an amount received by a person is in the nature of salary or not, it is necessary to examine over all circumstances and primarily the terms and conditions of the employment. We have already scrutinized the terms and conditions and thereupon made certain distinctions as listed hereinabove. On the basis of those distinctions, we hereby hold that the terms and conditions in respect of the impugned doctors who are under FGCs are not akin to the salaried employees. Their relationship with the hospital, thus, cannot be said to be an employer-employee relationship. For this reason the deduction of tax at source ought to have been made as per the provisions of Sec.194J of the Act."

6. Another important aspect was that the consultant doctors had filed their individual returns of their income showing professional fees received from the assessee and on that they had paid tax. The assessing officer directed for payment of interest under section 201 (1A) of the Act. On the issue of charging of interest the fact that those consultant doctors were independently assessed was of signifying relevance inasmuch as since they were paying tax, there was no loss to the Revenue. In such facts and circumstances, the Tribunal correctly concluded that charging interest was not

justified.

6.1. As discussed above, the Tribunal took into account all the relevant aspects from the material on record to arrive at a conclusion that the consultant doctors were not getting salary, but the payment to them was in nature of professional fees. The contract with them by the assessee was one of contract 'for service' and 'not of service'. Therefore, tax was being rightly deducted at source under section 194J and section 192 of the Act had no application. The findings and conclusions of the Tribunal are proper.

There is no error of appreciation. We are in agreement with the same. No substantial question of law arises for consideration.”

14. Adverting to the judgments relied upon by the learned counsel for the revenue, in **Ram Prashad's** case (supra), it was held by the Apex Court that a Managing Director who has to exercise powers within the terms and limitations prescribed under articles of association and subject to control and supervision of the Board of Directors of the company is employed as a servant of the company and remuneration payable to him is salary. Similar issue was adjudicated by the Karnataka High Court in **M.S.P.Rajes's** case (supra). In **Dr. Mrs. Usha Verma's** case (supra), the High Court was examining whether the income from the paying clinic should be taxed under the head 'Profit or gains of profession' or under the head 'salary'. The assessee-doctors were employed by the Government Medical College. Doctors working in Government hospitals used to examine patients at their residence. To stop this practice, a scheme of paying clinic was introduced within the official premises. The para-medical and other staff was provided by the employer. This Court had held that the doctors were serving in the Government Medical College and it was by

virtue of their employment with the Government that they were permitted by the Government to work in the paying clinics run in the College on sharing of fees. It was also held to be falling under Section 17(1) (iv) of the Act. It was concluded on the basis of factual matrix therein that the share of fees given to the doctors in accordance with the terms laid down by the employer would fall under salary. Thus, it could not be treated as income from profession. Such is not the position in the present case. The legal principles enunciated in these pronouncements are unexceptionable but keeping in view the facts of the case in hand noticed in succeeding para, they do not advance the case of the revenue.

15. In the present case, it has been categorically recorded by the CIT(A) that the contract for service implies a contract whereby one party undertakes to render services i.e. professional or technical services whereas contract of service implies relationship of master and servant and involves an obligation to obey orders in the work to be performed and also as to its mode and manner of performance. The professional doctors are not entitled for LTC, concession in medical treatment of relatives, PF, leave encashment and retirement benefits like gratuity. They are required to follow some defined procedure to maintain uniformity in action and some administrative discipline but this does not mean that they have become employees of the hospital. Further, the department had not taxed the payments received by any of the doctors from the assessee under the head 'income from salary'. Concurring with the findings recorded by the CIT(A), it has been held by the Tribunal that there does not exist employer-employee relationship between the assessee and the persons providing professional services. It has

been further recorded that on consideration of the agreement in its entirety vis a vis the case law relied upon by the assessee, it is evident that it is not a case of employer-employee relationship between the assessee and the doctors. It was noticed thus:-

“We have heard the rival submissions, facts of the case and the relevant records. The brief facts of the case are that the appellant company is running a hospital, known as Ivy Hospital at Mohali. The Department conducted a TDS inspection under section 133A of the Act, at the business premises of the assessee appellant on 28.9.2011. During the course of such inspection and assessment proceedings under section 201(1)/201(1A) of the Act, it was noticed by the ACIT(TDS) that the hospital is running different OPDs, apart from indoor patients' treatment. The procedure of treating patients in OPD is that when a patient comes for the treatment in Hospital's OPD, he deposits a consultation fee for the particular Medical Department in which he wants to consult, at the cash counter of the hospital and he is given a receipt for it and then he consults the doctor to whom he wants to consult. The concerned doctor prescribes the treatment on the hospital's letter pad. If the patient is to be admitted in the hospital for indoor treatment, then he is admitted under his treatment. The working days and hours of the doctors working in OPD of the hospital, are fixed and as per the contract between these doctors and the hospital they are not allowed to do their own practice or work with another hospital during the period for which they are engaged attended the hospital on call. However, during the course of TDS inspection, it was noticed that the assessee deductor was deducting the tax at source of the both types doctors under section 194J as professional charges, whereas the payments made to doctors who are regularly attached with the hospital, are required to be treated as salary and tax is also required to be

deducted under section 192 of the Act. The AO was of the view that payments made to doctors were regularly attached with the hospital, were required to be treated as salary and taxes are required to be deducted under section 192 of the Act. Consequently, AO issued a show cause notice to treat the person responsible (hereinafter referred to as PR) as assessee in default under section 201(1) of the Act for short deduction of tax at source from the payments made to the consultant doctors and charged interest under section 201(1A) of the Act. On appreciation of the written submissions filed by the appellant before the AO, it was concluded by him that there existed employer-employee relationship in the hospital. Consequently, the AO concluded the issue as 'During the financial year 2008-09, the assessee had deducted tax of ₹ 11,67,399.40 under section 194J of the Act, whereas the tax of ₹ 27,98,169.69 under section 192 of the Act was required to be conducted. Therefore, the assessee is liable to pay a difference of ₹ 16,30,770/- as tax of ₹ 7,40,121/- under section 201(1A) of the Act as per calculation enclosed as Annexure 1 to this order. Accordingly, total payable tax demand comes to ₹ 23,70,891/- for the assessment year 2009-10.'

6. Similarly, for the assessment 2010-11, the AP worked out the total payable tax demand at ₹ 75,60,672/- (difference net tax deducted at ₹ 62,50,560/- and interest of ₹ 12,50,112/- under section 201(1A) of the Act.

7. Learned CIT(Appeals) on appreciation of the factual matrix of the Act and case laws cited by the appellant, adjudicated the issue in favour of the assessee appellant, as per following finding:-

'5. I have considered the submission filed by the learned counsel. I have also gone through the MOUs between the appellant company and professional doctors. The various clauses of the MOUs need to be examined in the light of the criteria laid down by the courts to determine whether the

doctors attached to the appellant hospital are employees of the hospital. The test which is uniformly applied in order to determine whether a particular relationship amounts to employer-employee relationship is the existence of a right of control in respect of the manner in which work is to be done by the person employed. The nature and extent of control which is requisite to establish the relationship of employee and employer varies from business to business.'

8. A bare perusal of the case law relied upon by the appellant and submissions made in the synopsis reveals that there does not exist employer employee relationship between the assessee appellant and the persons providing professional services. On consideration of the agreement in its entirety vis a vis the case law relied upon by the assessee appellant, it is evident that it is not a case of employer employee relationship between the assessee appellant and the doctors. Therefore, having regard to the detailed analysis and findings of the CIT (Appeals) on the issue in question, it cannot be said that findings of the learned CIT(Appeals) suffer from any infirmity. In view of this, findings of the CIT(Appeals) are upheld.”

16. Additionally, we may notice the terms of the agreement on the basis of which the Assessing Officer had issued show cause notice to the assessee which read thus:-

“i) The second party shall be associated exclusively with M/s IVY Hospital as full-time consultant and shall not associate himself with any other hospital.

ii) the second party shall be paid professional charges for services rendered by him in IVY Hospital as under with a minimum guarantee of Rs...per month subject to TDS deductions as per Act, the minimum guarantee amount shall be paid to the second party for a period of 12 months from the date of joining. The same shall be revised at the end of 12

months.

a) 70% of the OPD charges

b) Visiting charges in ward/private room as mutually settled between the two parties.

c) 15% of the investigation done of IVY Hospital.

iii) the second party shall not do practice at any other place and would be associated exclusively with IVY hospital. The second party shall not operate or admit patient in any other hospital except at IVY Hospital.”

In our opinion, the Assessing Officer was not right in concluding on the combined reading of the above stipulations that the income of the doctors was salary. It nowhere suggests that there exists relationship of employer-employee between the assessee and the said doctors, rather it is a pointer to the contrary.

17. Learned counsel for the revenue has not been able to show any illegality or perversity in the findings recorded by the CIT(A) as well as the Tribunal. Consequently, the substantial questions of law are answered against the revenue and in favour of the assessee. The appeals stand dismissed.

(Ajay Kumar Mittal)
Judge

August 26, 2015
'gs'

(Ramendra Jain)
Judge