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

EFA(OS) 2/2015 with C.M.No.3883/2015 (for stay)

SOUTH DELHI MUNICIPAL CORPORATION ERSTWHILE PART OF MUNICIPAL CORPORATION OF DELHI ..... Appellant

versus

M/S SAIN & SONS ..... Respondents

\+ **EFA(OS) 3/2015 with C.M.No.3888/2015 (for stay)**

SOUTH DELHI MUNICIPAL CORPORATION ERSTWHILE PART OF MUNICIPAL CORPORATION OF DELHI ..... Appellant

versus

M/S SUKARAYA ETERPRISES ..... Respondent

\+ **EFA(OS) 4/2015 with C.M.No.3890/2015 (for stay)**

SOUTH DELHI MUNICIPAL CORPORATION ERSTWHILE PART OF MUNICIPAL CORPORATION OF DELHI ..... Appellant

versus

M/S MOD INDIA TRADING CO ..... Respondent

Present:

For the appellant: Mr.Sanjeev Sagar, Mr.Karan Bhardwaj and Ms.Jasvin Dhama, Advocates

For the respondents: Mr.Paritosh Budhiraja and Ms.Preeti Sharma, Advocates

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **06.04.2016**

1. The appellant in these appeals complains that the decision of the learned Single Judge inasmuch as it holds that the amounts

received by the decree holder/contractor towards interest – payable on the principal amounts determined by the arbitral tribunal cannot be subjected to tax deduction at source (TDS) in terms of Section 194-A of Income Tax Act.

2. The learned counsel for the appellant relied upon the judgment of the Division Bench of the Punjab and Haryana High Court in ***Karnail Singh vs. State of Haryana*** *(2010) 326 ITR 501.* The said decision had in turn relied upon the judgment of the Supreme Court in ***Bikram Singh and Others vs. Land Acquisition Collector and Others*** *(1997) 10 SSC 243.* Both decisions are categorical that interest payments on principal amounts determined in arbitration award or judgment of courts are revenue receipts. Such being the case, the courts further held that such amounts would be subjected to the levy under Section 4 of the Income Tax Act – consequently TDS would be deductible under the relevant provisions i.e. Sections 194-A/194-C of the Income Tax Act.

3. Counsel for the respondent decree holder/contractor submitted that the appellants have – pursuant to the impugned order sought and obtained an undertaking and in the event the income tax authorities raised demands towards TDS, the same would be fulfilled. It is secondly urged that the Decree Holder would be prejudiced considering that the amounts were received in a previous assessment year which has since gone by. This court is of the opinion that the plain text of Section 194-A and 194-C is categorical in that all amounts received by an assessee have to be subjected to tax. These provisions are essentially collection mechanism which obliged the

payer or the person remitting the amounts to subject them to tax and deposit them at the rates and in the manner prescribed by law. In this case the respondent/decree holder, deposited this liability. In these circumstances it is clarified that in the event any demand over and above the amount sought to be deducted by the appellants are made, the liability would be borne by the respondent/decree holder raised on account of provisions of the Income Tax Act.

4. Appeals are allowed in the above terms. The pending applications also stand disposed of.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

APRIL 06, 2016

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