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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 799 OF 2015

The Pr. Commissioner of Income Tax – 15 … Appellant
Versus
M/s. C.U. Inspections India Pvt. Ltd. …Respondent

Mr. Suresh Kumar, for the Appellant.
Dr. K. Shivram, Senior Counsel with Mr. Rahul Hakani, for the Respondent.

CORAM: M.S.SANKLECHA &
MR. RIYAZ I. CHAGLA, JJ.
DATED: 22ND JANUARY 2018

PC:-

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 12th November 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order dated 12th November 2014 is a common order in respect of Assessment Years 2004-05, 2006-07, 2008-09 and 2009-10. This Appeal relates to Assessment Year 2009-10.

2. The Revenue urges the following question of law for our consideration:

(1) *"Whether, on the facts and in circumstances of the case, the Tribunal was right in holding that license fees although billed in the previous years relevant to the subject Assessment Year has partly accrued to the assessee in the previous year relevant*

to the next Assessment Year, inspite of the Assessee following a mercantile system of accounting"?

(2) "Whether, on the facts and in circumstances of the case, the Tribunal was right in deleting the disallowance of an amount of Rs.38,88,621/- under Section 40(a) (ia) of the Act without appreciating the fact that the overhead expenses claimed are in the nature of technical service one which the assessee is liable to deduct tax at source under Section 195 of the Act"?

3. **Re.: Question No. 1**.

(a) The impugned order dated 12th November 2014 is a common order of the Tribunal relating to AY 2004-05, 2006-07 & 2008-09 and 2009-10. This Appeal relates to Assessment Year 2009-10. The Revenue has also filed Appeals in respect of each of AY 2004-05, 2006-07, 2008-09 and 2009-10 being Income Tax Appeal Nos. 620 of 2015, 622 of 2015 and 711 of 2015 raising the identical issues as urged herein. We have today by a separate order dismissed the Revenue's Appeals in Income Tax Appeal Nos. 620 of 2015, 622 of 2015 and 711 of 2015 for the AY 2004-05, 2006-07 & 2008-09.

(b) For the reasons indicated in the common order passed today in the above Appeals the question as raised herein does not give rise to any substantial question of law. Thus not entertained.

4. **Re. Question No.2**.

(a) The impugned order has *inter alia* allowed the Respondent's Appeal for the AY 2009-10 on the above issue by following the order of its co-ordinate bench on the same issue for the AY 2006-07 (ITA No. 577/Mum/2011).

(b) Mr. Suresh Kumar, the learned counsel appearing for the Revenue very fairly points out that being aggrieved by the order of the Tribunal for the AY 2006-07 (Supra) on this issue, the Revenue had filed an Appeal being Income Tax Appeal No. 1914 of 2013 relating to AY 2006-07 to this Court. However by an order dated 4th August 2015, this Court dismissed the Revenue's Appeal in respect of AY 2006-07 as urged in Income Tax Appeal No. 1914 of 2013 on an identical issue.

(c) Therefore, in view of the reasons indicated in our order dated 4th August 2015 in Income Tax Appeal No. 1914 of 2013, this question also does not give rise to any substantial question of law. Thus not entertained.

5. Accordingly, **Appeal dismissed.** No order as to costs.

(RIYAZ I. CHAGLA J.) **(M.S.SANKLECHA, J.)**