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

\+ ITA 595/2018 & CM APPL. 21042/2018

COMMISSIONER OF INCOME TAX (TDS)-1 ..... Appellant
Through: Mr. Asheesh Jain, Sr. Standing Counsel for the Revenue.

versus

DHARAMSHILLA CANCER FOUNDATION AND RESEARCH CENTRE ..... Respondent
Through: Mr. Salil Aggarwal and Mr. Madhur Aggarwal, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

<u>O R D E R</u>

% **21.05.2018**

The Revenue's grievance is that the lower appellate authorities fell into error in holding that the TDS deducted in this case was not on account of salary or professional charges but was on the basis that the doctors were paid a monthly retainer. Learned counsel relied upon the terms of the engagement/contract which the assessee - a charitable organisation entered into with its medical professionals and contended that they indicate regularity of service and that the doctors have no manner of autonomy and instead are bound to serve with the organisation.

The Income Tax Appellate Tribunal (ITAT) took note of the agreement and upheld the analysis that the amounts expended and paid by the organisation were towards the retainer. The ITAT had independently examined the amounts having regard to a chart prepared in this respect.

Since these are essentially the findings of facts and the Court is of the opinion that no question of law arises in this appeal, the appeal is dismissed along with the pending applications.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

MAY 21, 2018

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