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

INCOME TAX APPEAL NO. 969 of 2017

Pr. Commissioner of Income Tax .. Appellant
v/s.
M/s. Martin and Harris Laboratories Ltd. .. Respondent

Mr. Suresh Kumar for the appellant
Mr. Salil Kapoor, Sumit Dalchandani and Mr. Jitendra Singh for the respondent

CORAM : M.S. SANKLECHA &
NITIN JAMDAR, J.J.

DATED : 17th SEPTEMBER, 2019

P.C.

1. By this appeal under Section 260A of the Income Tax Act, 1961, the appellant Revenue seeks to challenge the order passed by the Income Tax Appellate Tribunal dated 25th May, 2016. By the impugned order, the Tribunal dismissed the appeal filed by the appellant Revenue challenging the order passed by the Commissioner of Income Tax (Appeals).

2. The present appeal pertains to Assessment Year 2008-09.

3. The appellant has placed the following question of law for our consideration as according to the appellant it gives rise to substantial a question of law :-

(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that there is no requirement of invoking the provisions of Section 40(a)(ia) of the Act in the hands of the assessee income in case of reimbursement made by the assessee of the expenses ?

4. It is an agreed position between the parties that the issue of deduction of tax at source on reimbursement of expenses stands concluded in favour of the respondent and against the Revenue by the decision of this Court. Our attention is invited to the decisions of this Court in the cases of DIT (International Taxation) Vs. Kruppe Udhe GMBH[1], CIT-II vs. OCB Engineers[2], CIT-4 Vs. Karma energy Ltd.[3], CIT Vs. Siemens Aktiongesellschaft[4], Pr. CIT Vs. Goldmansach (India) Finance Pvt.[5] and Pr. CIT Vs. M/s. ITD Cemindin JV[6].

5. In the above view, the question as framed does not give rise to any substantial question of law. Thus, not entertained.

6. The appeal is dismissed.

(NITIN JAMDAR, J.) **(M.S. SANKLECHA, J.)**

1 (2013) 354, ITR 173
2 (2013) 32 taxmann.com 271
3 (2015) 375 ITR 264
4 (2009) 310 ITR 320
5 (ITA No. 1742/2016)
6 (ITA No. 1649/2016)