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

INCOME TAX APPEAL NO. 1617 OF 2017

The Pr. Commissioner of Income Tax-6 ..Appellant
vs.
Cleartrip Travel Pvt. Ltd. ..Respondent

…........

Mr. A.R. Mlahotra a/w. Mr. N.A. Kazi for the appellant.
Mr. Atul Jasani for the respondent.

…........

CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 13 JANUARY 2020

P.C.:-

This Appeal arises from a common order passed by the Tribunal for the Assessment Year 2010-11. When the Income Tax Appeal bearing No.1660 of 2017 pertains to the Assessment Year 2009-10 came for consideration today and was disposed of as issues having been covered, learned counsel for the parties made a request to take up the present Appeal which is due on 16 January 2020. We take up this Appeal today for disposal as it would also covered. Accordingly, the Appeal is taken up on Board.

2. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act), challenges the order dated 15 November 2016

passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order dated 15 November 2016 is in respect of Assessment Year 2010-11.

3. Revenue urges the following questions of law, for our consideration :

> *"(A) Whether, on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal has erred in holding that the assessee was not liable for deduction of tax at source on the payments for credit card services ?*
>
> *(B) Whether, on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal has failed to appreciate the fact that the Notification No.56/2012(F. No. 275/53/2012-IT (B) dated 31 December 2012 was applicable from 1 January 2013, which implies that prior to the said Notification, payment to Banks for amount received through credit cards was in the nature of commission, which should have been subject to TDS under Section 194H. Since assessee has failed to deduct the TDS, the amount comes within the ambit of provisions of section 40(a)(ia) read with Section 194H ?"*

4. It is an agreed position between the parties that the issue raised herein stands concluded against the Revenue and in favour of the Respondent – Assessee by the decision of this Court in Respondent – Assessee's own case being *CIT V/s. M/s. Cleartrip Pvt. Ltd.*, (Income Tax Appeal No. 20 of 2017) decided

on 25 March 2019 and in *Principal Commissioner of Income Tax v/s. M/s. Hotel Leela Venture Ltd.* (Income Tax Appeal Nos.847 and 954 of 2016) decided on 18 December 2018.

5. In the above view, the questions as proposed do not give rise to any substantial question of law. Thus, not entertained.

6. Accordingly, Appeal dismissed.

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

Diksha Rane Digitally signed by Diksha Rane Date: 2020.01.15 18:34:28 +0530