OD-25

ORDER SHEET
ITAT/247/2017
IA NO:GA/2/2017 (OLD NO.GA/2123/2017)
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION(INCOME TAX)
ORIGINAL SIDE

COMMISSIONER OF I.T.(TDS), KOLKATA
-VS-
HERITAGE HEALTH TPA PVT. LTD.

BEFORE:
HON'BLE JUSTICE T.S. SIVAGNANAM
AND
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

DATE: 7TH MARCH 2022.

Mr. P.K. Bhowmick, Adv., for appellant/petitioner.
Mr. J.P. Khaitan, Sr. Adv., for respondent.

The Court: This appeal by the revenue, filed under section 260A of the Income Tax Act, 1961, is directed against the order dated December 9, 2016, passed by the Income Tax Appellate Tribunal, Kolkata "C" Bench, Kolkata, in ITA Nos.643, 1139-1140/Kol/2016, ITA No.1156-

1158/Kol/2012 and ITA No.1760-1762/Kol/2012, relating to the assessment years 2007-2008 to 2009-10 respectively. The revenue raised the following substantial questions of law:

"(i) Whether on the facts and the circumstances of the case, the Learned Tribunal has erred in law in holding that the provisions of section 194J of the Income Tax Act, 1961 are not applicable on the entire payment made by the deductor to the hospitals?

(ii) Whether on the facts and the circumstances of the case, the Learned Tribunal has erred in law in holding that provision of section 194J of the Income Tax Act, 1961 are applicable only on the payments made for "professional service" and not on the entire payments made to the hospitals?

(iii) Whether on the facts and in the circumstances of the case the Learned Tribunal has correctly interpreted the ambit and scope of the provision of section 194J of the Income Tax Act, 1961 read with circular no.8/2009, dated November 24, 2009, issued by the CBDT?

(iv) Whether on the facts and in the circumstances of the case the conclusion arried at by the Learned Tribunal in granting the aforesaid relief to the assessee is perverse?"

We have heard Mr. P.K. Bhowmick, learned senior standing counsel for the appellant-revenue, and Mr. J.P. Khaitan, learned senior counsel, appearing for the respondent.

It is seen that the entire tax demand stood settled and the said fact has been communicated to Mr. Bhowmick, learned senior standing counsel appearing for the appellant-revenue, by the Income Tax Officer, Ward-1(2) (TDS), Kolkata, by his letter dated March 5, 2022.

In light of the above, nothing further remains in the appeal for consideration as the tax demand stands nil as on date.

Accordingly, the appeal stands disposed of along with the connected application. However, the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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