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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITA/56/2013
IA NO. GA/2/2013 (Old No.GA/573/2013)
THE COMMISSIONER OF INCOME TAX, KOLKATA-XX, KOLKATA
VS.
THE MAYFAIR HOSPITAL

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 2nd March, 2023

Appearance :
Mr. Amit Sharma, Adv.
...for appellant

The Court : - This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 30.5.2012 passed by the Learned Income Tax Appellate Tribunal "A" Bench, Kolkata in I.T.A. No. 193/Kol/2012 for the Assessment Year 2008-2009.

The revenue has suggested the following substantial questions of law for consideration:-

I) Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal erred in deleting the addition incurred by the hospital for doctor's charges, pathology charges, doctor's fees and Commission payment under Section 40(a)(ia) read with Section 194 of the Income Tax Act, 1961?

II) Whether the provision can exempt those deductors who make payment to its clients within a previous year but not comply with the TDS provisions in terms of Chapter-XVII-B out of purview of Section 40(a)(ia) of the Income Tax Act, 1961 ?

III) Whether on the facts and circumstances of the case the Learned Tribunal failed to interpret the judgement of Vishakapatnam Special Bench Tribunal namely Merilyn Shipping & Transports Vs. Addl CIT ?

IV) Whether on the facts and in the circumstances of the case, the Learned Income Tax Appellate Tribunal erred in allowing unexplained expenditure under Section 69C of the Income Tax Act, 1961?

The learned Advocate for the revenue submits that the tax effect involved in the instant appeal is Rs.10,72,500/- which is far below the threshold limit as would be evident from the Circular issued by the C.B.D.T.

In view of the above, the revenue cannot pursue this appeal any further.

Accordingly, the appeal stands dismissed and the substantial questions of law suggested by the revenue in the Memorandum of Appeal are kept open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.