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

**INCOME TAX APPEAL NO. 975 OF 2018**

SHRADDHA KAMLESH TALEKAR
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Date: 2023.01.20 15:03:23 +0530

The Commissioner of Income Tax,
[International Taxation/Transfer Pricing] ... Appellant

**Versus**

Calderys France,
C/o. Calderys Refractories Ltd. ...Respondent

***

Mr.Ajeet Manwani with Ms.Samiksha Kanani, Advocate for appellant.

Mr.Niraj Sheth i/b Mr.Atul K. Jasani, Advocate for respondent.

**CORAM : DHIRAJ SINGH THAKUR & KAMAL KHATA, JJ.**

**DATE : 13th JANUARY, 2023.**

P C :

1. The appeal under section 260A of the Income Tax Act, 1961 is filed under against the order dated 14th July 2017 passed by the Income Tax Appellate Tribunal, Pune.

2. The following questions of law have been framed for our consideration :

> (i) Whether the Income Tax Appellate Tribunal, Pune ('ITAT') was right in law and on facts in coming to the conclusion that Section 206AA of the Income Tax Act, 1961 does not override the provision of

section 90(2) of the Act despite the fact that Section 206AA starts with a non-obstante clause *"Notwithstanding anything contained in any other provisions of this Act….."*?

(ii) Whether the ITAT, Pune was right in ignoring the memorandum explaining the provisions of the Finance (No.2) Bill, 2009 which clearly states that Section 206AA of the Act applies to non-residents and also Press Release of CBDT No.402/92/2006-MC (04 of 2010) dated 20-01-2010 which reiterates that Section 206AA of the Act will also apply to all non-residents in respect of payments/remittances liable to TDS?

(iii) Whether the ITAT, Pune was right in law and on facts in relying upon the decision which were rendered before the introduction of Section 206AA of the Act?

3. Counsel for the parties agree that the issues involved in the present appeal are already covered by virtue of a judgment of this Court in the case of ***The Commissioner of Income-Tax (International Taxation), Pune Vs. Serum Institute of India Ltd.*** [1] following the judgment of Delhi High Court in ***Danisco India (P.) Ltd. Vs. Union of India*** [2]**,**

1 Income Tax Appeal No.548-2016 with connected appeals dt.17-12-2018
2 [2018] 90 taxmann.com 295 (Delhi)

4. In that view of the matter, no substantial question of law arises in the appeal. The appeal is accordingly dismissed.

**[ KAMAL KHATA, J. ]** **[DHIRAJ SINGH THAKUR, J.]**