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

ORIGINAL SIDE

ITAT/164/2024
IA NO: GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX -1, KOLKATA
VS.
APOLLO GLENEAGLES HOSPITAL LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 6th November, 2024

Appearance :
Mr. Om Narayan Rai, Adv.
Mr. Soumen Bhattacharjee, Adv.
…for Appellant
Mr. Akhilesh Gupta, Adv.
Mr. Siddharth Das, Adv.
Mr. Indranil Banerjee, Adv.
…for respondent

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 27th April, 2023 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (the Tribunal) in ITA No. 1501/Kol/2019 for the assessment year 2012-13.

We have heard Mr. Om Narayan Rai, learned standing counsel appearing for the appellant/revenue and Mr. Akhilesh Gupta, learned counsel appearing for the respondent/assessee.

The appeal is admitted on the following substantial questions of law :

(i) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in not appreciating that the assessee is making payment to its foreign AE for those alleged services which are stewardship in nature, and therefore the arm's length price for such services should be NIL ?

(ii) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in not appreciating the international rulings and OECD guidelines for such alleged intra-group services which tantamount to be stewardship services do not warrant compensation ?

(iii) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in not appreciating that the assessee has failed to prove the benefit test for paying the support services fee which is a prerequisite for determination of a charge for the alleged service ?

As could be seen from paragraph 8 of the Memorandum of appeal, the tax effect in this appeal is Rs.1,67,07,950/-, which is well below the threshold limit fixed by the CBDT in its Circular dated 17.9.2024.

In the light of the same, the revenue cannot prosecute this appeal further.

Accordingly, the appeal stands disposed of on the ground of low tax effect. The stay application also stands disposed of.

However, the substantial questions of law as suggested are left open.

(T.S. SIVAGNANAM, CJ.)

(HIRANMAY BHATTACHARYYA, J.)

SN./S.Das
AR(CR)