

**आयकर अपीलीय अधिकरण “एच” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“H” BENCH, MUMBAI**

**माननीय श्री विकास अवस्थी, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI VIKAS AWASTHY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
 (Hearing through Video Conferencing Mode)

1. आयकरअपील सं./ I.T.A. No.765/Mum/2020  
 (निर्धारण वर्ष / Assessment Year: 2015-16)

&

2. आयकरअपील सं./ I.T.A. No.764/Mum/2020  
 (निर्धारण वर्ष / Assessment Year: 2016-17)

<b>ACIT Circle-16(1)</b> R. No. 439, 4 <sup>th</sup> floor Aaykar Bhavan, M. K. Road, Mumbai-400 021	<b>बनाम/ Vs.</b>	<b>M/s Hindustan Thompson Associates Pvt. Ltd.</b> 4 <sup>th</sup> floor, Peninsula Chambers, Ganapat Rao Kadam Marg Lower Parel, Mumbai-400 013
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. <b>AAACH-1463-M</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Revenue by</b>	:	Shri Ashish Heliwal– Ld. DR
<b>Assessee by</b>	:	Shri Aastha Dhawan– Ld. AR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	25/08/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	15/09/2021

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeals by revenue for Assessment Years (AY) 2015-16 & 2016-17 arises out of separate orders of learned first appellate authority. However, the grievance is common and therefore, the appeals were hear together and are now being disposed-off by way of this common order for the sake of convenience & brevity. The revenue is

aggrieved by the fact that Ld. CIT(A) has deleted disallowance u/s 40(a)(ia) in respect of payments made by assessee to field agents since the assessee deducted tax at source u/s 194C as against the opinion of Ld. AO that the TDS should have been made at higher rate as prescribed u/s 194J.

2. The Ld. Counsel for assessee, at the outset, submitted that the issue is squarely covered in assessee's favor by series of decision of this Tribunal in assessee's own case for AYs 2005-06 to 2014-15 and Ld. CIT(A) has merely followed the same. The copies of the orders have been placed on record. This fact remains uncontroverted before us. No distinction in facts could be demonstrated before us.

3. The facts in AY 2015-16 are that the assessee made payment to field agents for conducting research survey and data analysis & tabulation. The assessee deducted tax at source u/s 194C. However, Ld. AO opined that the said services would require use of highly professional personnel and would require technical staff to render the services. Therefore, tax was to be deducted at higher rates as prescribed for professional payments u/s 194J. Therefore, Ld. AO made disallowance of 30% against aggregate payment of Rs.48.12 Crores u/s 40(a)(ia) which resulted into disallowance of Rs.14.43 Crores in the hands of the assessee. The amount of disallowance in AY 2016-17 is Rs.14.13 Crores.

4. Upon further appeal, Ld. CIT(A) observed that the issue was covered in assessee's own case by various orders of the Tribunal and therefore, the disallowance was to be deleted. The coordinate bench in AY 2012-13, after considering the statutory provisions and various judicial pronouncements, held that the provisions of Sec.40(a)(ia) would

have no applicability in case of short deduction of tax at source as per the decision of Hon'ble Calcutta High Court in **CIT V/s S.K.Tekriwal (361 ITR 432)**. Aggrieved, the revenue is in further appeal before us.

5. After going through impugned order, it could be seen that the issue is covered in assessee's favor by series of decisions of Tribunal in assessee's own case right from AYs 2005-06 to 2014-15. Since there is no change in facts, no infirmity could be found in the impugned orders. Finding no reason to deviate from the earlier view of the coordinate benches, we dismiss the appeals for both the years.

6. Both the appeals stand dismissed.

*Order pronounced on 15<sup>th</sup> September, 2021.*

**Sd/-**

**(Vikas Awasthy)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated :15/09/2021  
Sr.PS, Dhananjay

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**