

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "I", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA No. 2549/Mum/2018 (A.Y. 2013-14)

Dy. CIT-16(2),
Room No. 469, 4th Floor,
Aayakar Bhavan, M.K. Road,
Mumbai-400020.

..... Appellant

Vs.

M/s BSR and Co.LLP,
Lodha Excelus, 1st Floor,
Appollo Mills Compound,
N.M. Joshi Marg, Mahalakahmi,
Mumbai-400011

PAN: AAAFB9852F

..... Respondent

Appellant by : Sh. Suresh Kabra, CA
Respondent by : Sh. Jagdish Jangid, CIT-DR

Date of hearing : 21/03/2022
Date of pronouncement : 15/06/2022

ORDER

PER GAGAN GOYAL, A.M.:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-5, Mumbai [hereinafter referred to as 'the CIT (A)'] vide order dated 22.03.2016 for the Assessment Year (AY) 2013-14. The Revenue has raised the following grounds of appeal:

- “1. *On the facts and in the circumstances of the case and in law, whether the Ld. CIT(A) was justified in deleting the disallowance of Rs.1,00,10,185/- u/s. 40(a)(i) being professional fees paid outside India without deduction of tax at source?*
2. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in holding that the payment made by the assessee to*

its associate concerns based in countries apart from Philippines, United Kingdom constitute payments for Independent Personal Service instead of 'Fees for Technical Services' as defined under Article 12/13 of the respective DTAA's?

3. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in holding that the payments made by the assessee to its associate concerns based in Philippines, United Kingdom constitute payments for Independent Personal Services instead of "Royalty" as defined under Article 12/13 of the respective DTAA's?*
4. *Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in holding that the services rendered by the associate concerns to the assessee constitute "Independent Personal Services" under DTAA's not appreciating that only those services performed by an independent non-resident alien contractor would constitute "Independent Personal Services" under DTAA which is not the case here as in this case, the Services were rendered by the Group entities to an Indian entity which were closely working with each other?*
5. *On the facts and in the circumstances of the case and in law, whether the Ld. CIT(A) erred in holding that the KPMGI Co-operative, Switzerland, is a mutual association and its receipts would not constitute income chargeable to tax and is not obliged to withhold and any tax without appreciating the facts, thereby deleting the disallowance of Rs.6,26,83,068/- u/s. 40(a)(i).*
6. *On the facts and in the circumstances of the case and in law, whether the Ld. CIT (A) erred in holding that the payments made by the assessee to KPMGI for names, mark and other facilities were in the nature of royalty and chargeable to tax in India.*
7. *The appellant prays that the order of CIT (A) on the above grounds be set aside and that of the Assessing Officer be restored.*
8. *The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."*

2. **Facts of the case:**

The assessee is a Limited Liability Partnership firm of Chartered Accountants and filed its return of income for AY 2013-14 on 29.11.2013, declaring a total income of Rs. 24,53,74,340/-. Thereafter, the assessee filed a

revised return on 30.03.2015 to claim additional TDS credit and additional tax credit u/s. 90 and 90A of the I.T. Act, 1961.

3. Assessee's case was selected for scrutiny under CASS and statutory notices u/s. 142(1) and 143(2) of the I.T Act were issued. During the course of scrutiny proceedings on two issues, AO issued show cause notice to the assessee i.e. (i) claim of professional fees of Rs. 1,00,10,845/- paid to non-residents without deduction of tax at source (ii) claim of remittance of Rs. 6,26,83,068/- made to KPMG International Co-operative, Switzerland without TDS.

4. During the year under consideration, the assessee has made payments of Rs.1,00,10,845/- as professional fees to various non-residents without deduction of tax at source as under:-

Sr.No	Name of the non-resident	Amount (Rs.)
1.	KPMG AB, Sweden	2,10,050
2.	KPMG Corporate Finance Pte. Ltd., Singapore	2,31,250
3.	KPMG Ford Rhodes Thornton & Co., Sri Lanka	2,05,274
4.	KPMG Hadibroto, Indonesia	1,21,781
5.	KPMG LLP, Singapore	9,44,022
6.	KPMG LLP, UK	13,90,374
7.	KPMG LLP, USA	49,40,461
8.	KPMG LLP, USA	3,06,141
9.	KPMG Services Pte. Ltd., Singapore	85,351
10.	KPMG United Kingdom Plc., UK	9,11,718
11.	KPMG Australia	4,41,420
12.	Rahman Rahman Huq, Bangladesh	2,23,003
	Total	1,00,10,845

5. On the similar issue, ITAT, Mumbai in assessee's own case for AY 2008-09 and AY 2009-10 decided in favour of assessee. However, AO ignored the same while deciding the issue and held as under:-

"3.4 The submission of the assessee has been duly considered. On perusal of the copies of invoices, letters of engagement and correspondence relating to the Sweden, Singapore, UK, USA and entities, it is seen that:

1. *The services rendered by the abovementioned entities are in areas of application of high skills as well as technical knowledge.*
2. *These entities have actually caused the imparting and creating of specialized documents requiring use of high skills and technical knowledge.*
3. *These entities have provided services which do give enduring benefits to the assessee.*
4. *The assessee is enabled to use the knowledge shared by the abovementioned entities during the course of provision of services in various assignments handled by it for its clients.*

3.5 It is thus very clear that the services provided by these entities make available technical knowledge, experience, skill, etc. to the assessee and accordingly falls under the ambit of 'Fees for Technical Services' under Article 12/13 of the respective DTAA's.

3.6 Once the payments are held to be in the nature of 'Fees for Technical Services', there is income chargeable to tax in the same and the assessee is obliged to deduct tax at source from the payment.

3.7 In so far as the Sri Lanka, Indonesia and Bangladesh DTAA's are concerned, there is no article dealing with 'Fees for technical services'. Thus, it has been claimed that the services are not in the nature of 'Fees for technical services'. However, they do fall under the ambit of Article 22/23 of the said DTAA's dealing with 'Other Income'.

3.8 Thus, once the payments are held to be in the nature of 'Other Income' there is income chargeable to tax in the same and the assessee is obliged to deduct tax at source from the payments.

3.9 In this regard, the landmark judgement given by the Hon'ble Supreme Court in the case of Transmission Corporation is squarely applicable to the said remittances. The relevant extracts are reproduced below.

"... Section 195 deals with deduction of tax in cases where payment is to be made to a non-resident. The scheme of sub-sections (1), (2) and (3) of section 195 and 197 leaves no doubt that the expression any other sum chargeable under the provisions of this Act would mean "sum" on which tax is leviable. In other words, the said sum is chargeable to tax and could be assessed to tax under the Act. The consideration would be whether payment of the sum to the non-resident is chargeable to tax under the provisions of the Act or not. That

sum may be income or income hidden or otherwise embedded therein. The scheme of tax deduction at source applies not only to the amount paid which wholly bears "income" character such as salaries, dividends, interest on securities, etc. but also gross sums, the whole of which may not be income or profits of the recipient, such as payments to contractors and sub-contractors and the payment of insurance commission. In some cases a trading receipt may contain a fraction of a sum as taxable income, but in other cases such as interest, commission, transfer of rights in patents, goodwill or drawings for plant and machinery and such other transactions, it may contain a large sum as taxable income under the provisions of the Act. Whatever may be the position, if the income is from profits and gains of business, it would be computed under the Act as provided at the time of regular assessment. The purpose of sub-section (1) of Section 195 is to see that on the sum which is chargeable u/s. 4 of the Act, for levy and collection of income tax, the payer should deduct income-tax thereon at the rates in force, if the amount is to be paid to a non-resident. The said provision is for tentative deduction of income-tax; the rights of the parties are not, in any manner, adversely affected. Further the rights of the payee or recipient are fully safeguarded u/s 195(2), 195(3) and 197. The only thing which is required to be done is to file an application for determination by the AO that such sum would not be chargeable to tax in the case of the recipient, or for determination of the appropriate proportion of such sum so chargeable, or for grant of a certificate authorizing the recipient to receive the amount without deduction of tax, or deduction of income-tax at any lower rate. On such determination, tax at the appropriate rates could be deducted at source. If no such application is filed, income tax on such sum is to be deducted and it is the statutory obligation of the person responsible for paying such "sum" to deduct tax thereon before making payment".

3.10 Thus, in view of the above, the assessee should have deducted tax in respect of amounts payable to various non-residents under the provisions of Section 195 of the Income Tax Act, 1961, on the ground that the amount payable to them was chargeable to tax in India under Section 9(1)(vii) of the Income Tax Act, 1961 r/w Articles 12/22/23 of the respective DTAA's.

3.9 In view of the above discussion, the payments of professional fees amounting to Rs. 1, 00, 10,845/- made to various non-residents without deduction of tax at source are disallowed u/s. 40(a) (i) of the Income Tax Act, 1961 and added to the income of the assessee firm."

6. Ground Nos. 1, 2, 3 and 4 are interlinked, hence disposed of by common finding. We have gone through the assessment records, contentions of the AO, submissions of the assessee and order of the Ld. CIT (A). The issue before us revolves around the payments made by the assessee to certain non-resident entities for professional services rendered by them outside India which were availed in the course of execution of engagements of the assessee firm.

7. We have gone through the Paper Book submitted and the submissions of the assessee before the Ld. CIT(A) and found that the payments made to non-resident firms mentioned, supra, in the table will not come under Article 12 dealing with 'Fees for Technical Services', rather they fall under Article 15 dealing with 'Independent Personal Service' and further, as these payments were made outside India and there is no Permanent Establishment (PE) in India, the payment would not be taxable in India.

8. With regard to the remittances for professional fees to Sweden, Singapore, UK, USA and Australia entities, the services did not fall within the ambit of 'Fees for Technical Services' / 'Royalties as defined in Article 12/13 of the respective tax treaties. In that they did not make available technical knowledge, experience and skill hence did not attract section 195 of the I.T. Act as the said payments were not in the nature of income chargeable to tax in India.

9. For the above, the appellant relied on decisions of the ITAT, Mumbai, in its own case for AYs. 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13. The Tribunal in I.T. Appeal No. 1917(Mum) of 2013, A.Y. 2009-10 decided on 06.05.2016, in assessee's own case held as under:

*"In the context of payments made to KPMG Tax Services Pvt. Ltd., **Singapore**, KPMG LLP, Singapore and KPMG Tax Advisor, Belgium, the CIT (Appeals) noted*

that they are companies registered in the respective countries, who have rendered services outside India. Such services related to assistance in audit, taxation, information technology services, conducting background checks, etc. Considering the nature of the services rendered, which is not disputed by the Revenue, in our view, the CIT(Appeals) made no mistake in holding that the payments are not 'fee for technical services'. The aforesaid services have been rightly held to be outside the purview of Article-12 and/or Article-13 of the respective tax treaties, and instead such income falls within the scope of Article-7 thereof i.e. in the nature of 'business profits'. It has also (Assessment Year : 2009-10) not been disputed that such entities do not have a permanent establishment in India, therefore, such incomes are not chargeable to tax in India so as to require deduction of tax at source. On this aspect also, we affirm the stand of the CIT (Appeals) that such payments are not liable for disallowance under section 40(a)(i) of the Act.

*5.1 In so far as payments to **KPMG LLP, UK and KPMG USMCG Ltd. UK** are concerned, herein also the said entities do not have permanent establishment in India. The CIT (Appeals) has found that such entities are eligible for the benefit of Article -15 of Indo-US Double Taxation Avoidance Agreement dealing with independent personal services and hence, payments are not chargeable to tax in India so as to require deduction of tax at source. The aforesaid findings have not been disputed before us on the basis of any cogent material and, therefore, we hereby affirm the same. Consequently, invoking of section 40(a) (i) in the context of aforesaid payments is also not justified.*

*5. In the above background, we have carefully considered the rival submissions. Pertinently, the issue revolves around the payments made by the assessee to certain non-resident entities for professional services rendered by them outside India. It has been consistently explained by the assessee that the services of such entities were availed during the (Assessment Year: 2009-10) course of the execution of engagements of assessee firm. The assessee firm did not deduct the tax at source and, therefore, the Assessing Officer invoked the provisions of section 40(a) (i) of the Act and disallowed such expenditure. The details of the entities along with the amounts paid have been culled out by the Assessing Officer in Para-3 of the assessment order and the same is not being repeated for the sake of brevity. The payments have been made to 12 different professional entities based in 10 different countries. In so far as the payments that are made to **KPMG LLP, USA and KPMG LLP, Canada** are concerned, the same has been made on account of professional services rendered in relation to taxation and transfer pricing. Undisputedly, the professional services have been rendered by the aforesaid entities outside India. The stand of the Revenue is that such services are in the nature of 'fee for technical services' and, therefore, tax was liable to be deducted*

at source in India. Factually speaking, the aforesaid stand of the Revenue is devoid of any support because there is no material to establish that any technical knowledge, skill, etc. has been made available to the assessee so as to consider it as falling within the purview of Article-12 of Indo-US Double Taxation Avoidance Agreement. It is also an established fact that such non-resident recipients do not have permanent establishment in India and, therefore, in the said background the same can, at best, be treated as independent personal services covered by Article-15 of the Indo-US Double Taxation Avoidance Agreement. As a consequence and in the absence of any fixed base in India, such income cannot be held chargeable to tax in India so as to require deduction of tax at source. (Assessment Year: 2009-10) Therefore, invoking of section 40(a) (i) of the Act to disallow such expenditure is not tenable.

10. With regard to the remittances for professional fees to Sri Lanka, Indonesia and Bangladesh entities, the services did not fall under the ambit of Article 22/23 of the respective tax treaties dealing with other income correlated with the fact that the entities based in these countries did not have any Permanent Establishment in India, hence did not attract section 195 of the I.T. Act as the said payments were not in the nature of income chargeable to tax in India.

11. In this regard, assessee relied on the decisions of the ITAT in P.T. McKinsey Indonesia (2013) 141 ITD 357 (Mum) and Bangkok Glass Industry Co. Ltd. (2013) 215 Taxman 116 (Mad) and also on decisions of the CIT(A) in the Appellant's own case for AY 2011-12 and AY 2012-13, vide ITA No. 4842 to 4844 & 4556/Mum/2016, dated 04.01.2018 held:

*"5.1 in so far as payments to KPMG LLP, UK and KPMG USMCG Ltd. With regard to the payments to KPMG, Mauritius, KPMG Hazen Hassan, Egypt, KPMG Dubai, UAE and **KPMG, Sri Lanka** are concerned, the CIT(Appeals) has noticed that the tax treaties with the respective countries do not have any Article defining 'fee for technical services'; and that the services were being rendered in relation to taxation matters. In this back ground, the CIT (Appeals) held that the payments for such services fall within the scope of article 14/15 of the respective treaties dealing with independent personal services and in the absence of any fixed place of business of the recipient in India, income from such services was not chargeable to*

tax in India. Therefore, there was no requirement to deduct tax at source and accordingly the invoking of section 40(a) (i) of the Act has been set-aside by the CIT (Appeals). The aforesaid factual matrix brought out by the CIT (Appeals) has not been assailed by the Revenue before us on the basis of any cogent material and, thus, the same is hereby affirmed. With respect to the payment made by the assessee to Siddharta Siddharta and Widjaja, **Indonesia** for rendering of audit services, it is seen by the learned CIT (A) that the **India-Indonesia** DTAA does not have any Article defining FTS and that the services were rendered in respect of audit and taxation matters. In these factual circumstances the learned CIT(A) was of the view that since the payment made by the assessee for such services fall within the scope of Article-14 of the India-Indonesia DTAA dealing with independent personal services and in the absence of any PE of the recipient in India, income from such services is not exigible to tax in India, there was no requirement to deduct tax at source on the said payment and accordingly deleted the disallowance under section 40(a)(ia) of the Act as not sustainable. In this factual matrix, we are of the considered view that the assessee is not liable to deduct tax at source on the aforesaid non-resident entity in Indonesia for the provisions of section 40(a) (i) of the Act to be evoked. We, therefore, uphold the finding of the learned CIT (A) on this issue which has not been controverted before us by the Revenue.

2.3 I have considered the facts and perused the material on record. It is noticed that **Rahman Rahman Huq, Bangladesh** and KPMG Mauritius are firms of individuals registered in Bangladesh and Mauritius respectively. KPMG Portugal, KPMG Sweden, KPMG Netherlands, Background Bureau Inc., USA Scherzer Intl, USA, KPMG IFRG Lid, UK and KPMG USCMG Ltd, UK are companies registered in the respective countries. The services were entirely rendered outside India. Further the services relate to assistance in audit, taxation, information technology services, conducting background checks, responses to queries related to International Financial Reporting Standards and review of documents to be filed with Securities and Exchange Commission in respect of companies listed in US stock exchanges which are not fees for technical services in nature and having been rendered outside India, fall outside the purview of Article 12/13 of the respective tax treaties, therefore the income fell under the ambit of Article 7 of the respective tax treaties dealing with Business Profits. Since the overseas entities did not have a permanent establishment in India, there was no income chargeable to tax in India and consequently, no requirement of tax withholding.”

4.9 With respect to the payment made by the assessee to Siddharta Siddharta and Widjaja, **Indonesia** for KP rendering of audit services, it is seen by the learned CIT (A) that the India-Indonesia DTAA does not have any Article defining FTS and that

the services were rendered in respect of audit and taxation matters. In these factual circumstances the learned CIT (A) was of the view that since the payment made by the assessee for re such services fall within the scope of Article-14 of the India-Indonesia DTAA dealing with independent pe personal services and in the absence of any PE of the recipient in India, income from such services is not i exigible to tax in India, there was no requirement to deduct tax at source on the said payment and accordingly deleted the disallowance under section 40(a)(ia) of the Act as not sustainable. In this factual matrix, we are of the considered view that the assessee is not liable to deduct tax at source on the aforesaid non-resident entity Indonesia for the provisions of section 40(a)(i) of the Act to be evoked. We, therefore, uphold the finding of the learned CIT (A) on this issue which has not been controverted before us by the Revenue.”

12. As the facts mentioned above for the year under consideration and findings of the ITAT, Mumbai in earlier years in assessee’s own case are found to be similar, we don’t find any perversity in the order of Ld. CIT (A), hence order of the Ld CIT (A) is sustained and Ground Nos. 1, 2, 3 & 4 raised by Revenue are dismissed.

13. Ground Nos. 5 & 6:

Ground Nos. 5 & 6 are interlinked, hence disposed of by common findings, pertains to claim of remittance of Rs. 6,26,83,068/- made to KPMG International Co-operative, Switzerland without TDS.

14. On this issue, during the assessment proceedings, AO held as under:-

“4.3 on perusal of the sub-license agreement dated 01.01.2007 filed by the assessee; it appears that the payment is essentially for use of KPMG marks which belong to KPMG International Co-operative. In this regard, reference is drawn to clause 4(a) and (b) of the sub-license agreement as under:

“4. Use of KPMG Marks

a) The Signatory Sublicense acknowledges that the Sub licensor’s right to the KPMG Marks derive exclusively from the Sub licensor’s rights under the Membership Agreement and that the sublicense to the KPMG Marks granted pursuant to this Section 4 is derivative there from and subject to the terms and conditions of such Membership Agreement. The Signatory Sublicense further acknowledges that the

right of KPMG International to license the KPMG Marks is subject to the terms of the Component License Agreement and the Signatory Sub licensee agrees that it shall not take any action that contravenes the terms of the Component License Agreement.

b) Upon the terms and conditions hereinafter set forth, the Sub licensor hereby grants to the Signatory Sub licensee, and the Signatory Sub licensee hereby accepts, the non-exclusive rights, license and privilege to use the KPMG Marks in connection with its marketing and providing of services permitted to be provided by the Signatory Sub licensee in accordance with the provisions of this Agreement, the Statutes and the Policies and Regulations, and on products related to such services. Such grant shall include the right and license to issue engagement reports in the name of "KPMG" and to use the KPMG Marks in any local domain name used by the Signatory Sub licensee. Such grant shall not include any right of the Signatory Sub licensee to enter into Sublicense Agreements or otherwise authorize the use of the KPMG Marks to any person, firm or organization other than the Signatory Sub licensee's Controlled Parties, or allow any other person, firm or organization to otherwise hold itself out to be affiliated with or associated with KPMG International.

Thus the payment is primarily for use of the name. The assessee derives substantial benefits by being part of the KPMG group and using the name KPMG. It is clearly evident that the payment is towards acquiring the right to use the name of KPMG which is certainly in the nature of royalty. This would be the position even under Article 12 of the above mentioned DTAA dealing with 'Royalties'.

4.4 Therefore, once the payments are held to be in the nature of 'Royalties', there is income chargeable to tax in the same and the assessee is obliged to deduct tax at source from the payments.

4.5 In view of the above, the assessee should have deducted tax in respect of amounts payable to KPMG International Co-operative under the provisions of section 195 of the Income Tax Act, 1961 on the ground that the amount payable to them was chargeable to tax in India under Section 9(1)(vi) of the Income Tax Act, 1961 r/w Article 12 of the DTAA.

4.6 In view of the above discussion, the payments amounting to Rs.6,26,83,068 made to KPMG International Co-operative, Switzerland without deduction of tax at source is disallowed u/s. 40(a)(i) of the Income Tax Act, 1961."

15. Fact of the matter is, the appellant had paid membership fees of Rs.6, 26, 83,068/- to KPMG International Co-operative (“KPMGI”) without deduction of tax at source.

KPMGI is a mutual association of its members firms. It has over 150 members across the globe one of whom is KPMG. KPMG is a partnership firm registered under the Indian Partnership Act, 1932 pursuant to the approval received from the Secretariat of Industrial Approvals, Government of India. KPMG and KPMGI have entered into a Membership Agreement. KPMG, KPMGI and the Appellant have entered into a sub-license agreement. The rights and obligations of KPMG, the member and the Appellant, the sub-licensee are the same. Thus, effectively, the Appellant is a member of KPMGI.

The objectives of the KPMGI relate to the development, co-ordination, support, promotion and facilitation of the operations/ services of the KPMG Member Firms to its clients in various ways. KPMGI does not make any profits on its activities and does not have any commercial purpose. All members contribute to their share of costs incurred by KPMGI in providing support to the Member firms. The total costs are shares amongst member firms based on their budgeted revenues and collected in advance/ instalments and adjusted year-on-year for any shortfall/ excess recovery for the eventual benefit of members.

16. We have given due consideration to the findings of the AO, submission of the assessee and relevant agreement filed by the assessee between assessee and KPMGI Cooperative, Switzerland.

17. Keeping in view the agreement between assessee and KPMGI Co-operative, Switzerland, it is apparently clear that KPMGI Co-operative, Switzerland is a mutual association; there is a complete identity between the contributors and

participators. The actions of the contributors and participators are in furtherance of the mandate of the association and no outside party is entitled for any benefit, knowledge sharing and furtherance of business. There seems to be no element of profit by the contributors from a fund made by them. The case of the assessee falls within the four corner of the ambit of the 'Principle of Mutuality'. The assessee's plea that the remittances to KPMGI Co-operative, Switzerland are in the nature of reimbursement cost and consequently, there is no need to deduct TDS from the same.

18. ITAT, Mumbai's decision in assessee's own case in ITA No. 4535, 4536/Mum/2016 dated 05.12.2018 held as under:

"On appraisal of the above said findings, we find that the CIT (A) has decided the matter of controversy on the basis of the decision of the Hon'ble TAT in the assessee's own case bearing ITA No.2493/ M/2013. It is specifically held that the payment was based on the Principle of Mutuality; therefore, the same is not liable to be taxable in India. At the time of argument, the Ld. Representative of the assessee has also relied upon the decision in the case of DCIT Vs. KPMG (2017) 81 taxmann.com 118 (Mum) dated 07.04.2017 and in the case of ACIT VS. BSR & Company in ITA. No.4842 to 4844 & 4556/M/2016 dated 04.01.2018 etc. Since the issue has squarely been covered by the decision of Hon'ble ITAT in the assessee's own, therefore, finding no justifiable grounds to interfere with the finding of the CIT (A), we decide the issue in favour of the assessee. We confirmed the finding of the CIT (A) on these issues and decide the issue in favour of the assessee against the revenue."

19. In this regard, order of CIT(A) and orders of Mumbai ITAT in assessee's own case for AY 2011-12 and AY 2012-13 held that no disallowance on this front is warranted u/s. 40(a)(i) of the I.T. Act for not withholding tax from membership fees paid to KPMGI Co-operative, Switzerland as the facts mentioned above in the assessee's case for earlier years and year under consideration are similar and therefore following the decision of Mumbai ITAT, we don't find any perversity in

the order of the Ld. CIT(A). Hence, order of Ld. CIT (A) is sustained and grounds raised by Revenue are dismissed.

20. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 15th day of June, 2022.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(GAGAN GOYAL)
ACCOUNTANT MEMBER

Mumbai, दिनांक / Dated: 15/06/2022

SK, Sr.PS

Copy of the Order forwarded to:

1. अपीलार्थी / The Appellant ,
2. प्रतिवादी / The Respondent.
3. आयकर आयुक्त (अ) / The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय. अपी. अधि. , मुंबई / DR, ITAT, Mumbai
6. गार्ड फाइल / Guard file.

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BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai