

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD
(THROUGH VIDEO CONFERENCE)**

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER

I.T.A. No. 1537/HYD/2019

Assessment Year: 2009-10

Kiran Infertility Centre
Private Limited,
HYDERABAD
[PAN: AABCK6053F]

(Appellant)

Income Tax Officer,
Vs Ward-2(1),
HYDERABAD

(Respondent)

For Assessee : Shri S.Rama Rao, AR
For Revenue : Smt. N.Swapna, DR

Date of Hearing : 23-02-2021
Date of Pronouncement : 27-04-2021

ORDER

This assessee's appeal for AY.2009-10 arises from the CIT(A)-12, Hyderabad's order dated 17-07-2019 passed in case No.10289/2018-19, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. The assessee's has canvassed the following substantive grounds in the instant appeal:

“1.The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.

2. The learned Commissioner of Income-Tax (Appeals) erred in confirming the action of the Assessing Officer in initiating proceedings u/s 147 of the I.T. Act.

3. The learned Commissioner of Income-Tax (Appeals) erred in confirming the addition of Rs.8,15,000/- representing disallowance u/s 40(a)(ia) of the I.T. Act.

4. The learned Commissioner of Income-Tax (Appeals) ought to have considered the fact that the provisions of Sec.194C/194J have no application to the payments made and that, therefore, the addition is not justified.

5. The learned Commissioner of Income-Tax (Appeals) erred in confirming the addition of Rs.3,817/- made by the Assessing Officer by separately assessing such interest income.

6. The learned Commissioner of Income-Tax (Appeals) erred in confirming levy of interest u/s 234A, 234B and 234C of the I.T. Act.

7. Any other ground that may be urged at the time of hearing”,

3. Both the parties informed me at the outset that the instant issue of Section 40(a)(ia) disallowance in case of payments made has already heard by this tribunal's 'B' bench, four appeals ITA Nos.866 to 868/Hyd/2016 and ITA No.1673/Hyd/2017 for earlier assessment years. And that the undersigned i.e., S.S.Godara, Judicial Member has presided over the said bench. Mr.Rao next submitted that whatever the view adopted therein would apply *mutatis-mutandis* herein as well. I notice in this factual backdrop that the said bench's order dt.08-04-2021 has upheld Section 194C r.w.s. 40(a)(ia) disallowance *qua* payments made to the very payee Mr.Sesha Sai. I thus confirm the impugned former disallowance of Rs.8,15,000/-.

4. Learned council did not press for assessee's ground Nos.2 to 6, keeping in mind the smallness of the sum(s) involved. Ordered accordingly.

5. This assessee's appeal is dismissed in above terms.

Order pronounced in the open court on 27th April, 2021

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Hyderabad,
Dated: 27-04-2021

TNMM

Copy to :

1.Kiran Infertility Centre Private Limited, 6-2-966/4, Lane No.10, Opp:Hindi Prachar Sabha, Khairatabad, Hyderabad.

2.The Income Tax Officer, Ward-2(1), Hyderabad.

3.CIT(Appeals)-12, Hyderabad.

4.Pr.CIT-2, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.