



Payment made to Consultant doctors come under the purview of Section 194J

Kovai Medical Centre and Hospital Limited [TS-270-ITAT-2023(CHNY)]

New Delhi, May 27th, 2023

The Assessee company in the present case is a Medical Centre and Hospital Limited, running a multispecialty hospital. The Assessee company appoints consultant doctors on the basis of a fixed monthly remuneration, the consultant doctors were also free to carry on their independent private practice. The main issue arose in the present case was that under which section the TDS should have been deducted by the Assessee? Whether the purview of section 194J or section 192 would be attracted under the circumstances of the present case i.e., on the TDS deducted on the salary of the consultant doctors?

Hon'ble ITAT of Chennai in the present case held:

That the appeal of revenue contesting that the Assessee company should have deducted TDS U/S 192 with regard to the remuneration paid to the consultant doctors and not U/S 194J is dismissed on the grounds that the applicability of the section 192 is required when there is an established relationship of employer-employee or master-servant. The facts of the present case where the Assessee company has appointed consultant doctors and fixed a monthly remuneration for them is not enough to establish a master-servant, employer-employee relationship between them, hence, the applicability of section 192 is not attracted under the circumstances of the present case.

The Hon'ble ITAT relied on the HC ruling in Dr Mathew Cherian and plethora case wherein it was held that relationship between professional doctor consultant and the hospital cannot be treated as employer-employee relationship.

The Hon'ble ITAT held that the applicability of section 194J is attracted in the present case.

