Kamal Mookerjee & Co. (Shipping) Pvt. Ltd. v. Commissioner of Income Tax, Cal-III, Kolkata

ITA 72/2012 and ITA 73/2012

ITA 72/2012 and ITA 73/2012 (2024-04-03) | 2024-04-03

Dock-worker wages routed through the statutory Board did not constitute payment under a labour-supply contract.

194C | 40(a)(ia) | 143(3)

High Court at Calcutta | Division Bench | Justice Surya Prakash Kesarwani | Justice Rajarshi Bharadwaj

Assessment years: 2006-07, 2007-08

Scope of this order

Assessee succeeded in both identified assessment years; the substantial questions were answered against Revenue.

01 FACTS OF THE CASE

Kamal Mookerjee, a registered stevedore employer, remitted Rs.2,22,58,795 for AY 2006–07 and Rs.1,56,31,495 for AY 2007–08 to the Calcutta Dock Labour Board for workers' wages. The AO applied sections 194C and 40(a)(ia). CIT(A) allowed the appeals, but the Tribunal's two orders of 17 February 2012 reversed that position and remanded for statistical purposes.

Source: PDF p. 3

02 DISCUSSION BY THE HON'BLE COURT

The statutory scheme made the allocated dock workers employees of the registered employer. The Board regulated allocation and disbursed wages as agent; it did not supply labour under a contract with the assessee. Reading the scheme with Vizagapatnam Dock Labour Board and Tarsem Singh, the Court rejected the Tribunal's contrary characterisation.

Source: PDF p. 19

03 JUDICIAL DECISION

Both appeals were allowed. The Tribunal orders in ITA 199/Kol/2010 for AY 2006–07 and ITA 1545/Kol/2010 for AY 2007–08 were set aside. Section 194C did not apply to these wage payments through the Board, so the consequential section 40(a)(ia) disallowance did not arise.

Source: PDF p. 23

04 OUTCOME / IN WHOSE FAVOUR

Assessee succeeded in both identified assessment years; the substantial questions were answered against Revenue.

Source: PDF p. 23

05 EXPERT COMMENTS

Identify the actual employer before classifying the payment — Clause 45 and the related obligations establish the employment relationship between the registered employer and dock workers. Payment through a statutory intermediary does not, by itself, turn wages into consideration for a labour-supply contract.

The reasoning is specific to this scheme — The result depends on the Board's statutory allocation and wage-disbursement role. It should not be generalised into an exclusion for every payment to a statutory board or every outsourced workforce arrangement.

Consequential disallowance follows the identified TDS issue — The section 40(a)(ia) conclusion follows the finding that section 194C was inapplicable to these payments. The judgment does not grant a universal exemption from other tax obligations or decide unrelated payment categories.

Preserve both years and disclose chronology conflicts — The operative order identifies AYs 2006–07 and 2007–08; paragraph 3 prints 2005–07. The admission date printed as 10 January 2012 precedes the stated Tribunal date of 17 February 2012. Those source inconsistencies are disclosed without inventing replacement dates.

Source: PDF p. 3

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 23-page source PDF; corrected note based on this document.

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

Open cited source rendition

All 23 physical source pages read and visually inspected. SHA-256: 8de3ff0ec5adfb18f62e472c2bdbb2be08572fa216e0ecbfd4ca4a24d9ff1905.

STATUTORY SCOPE

The holding reads section 194C with the Dock Workers (Regulation of Employment) Act, 1948 and Calcutta Scheme, 1970, especially clauses 41, 42, 45 and 56. It concerns the particular statutory employment relationship.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

PROFESSIONAL DISCLAIMER

General research information only; not legal or tax advice, a certified judgment or a substitute for the full order. Applicability depends on facts, assessment year, statutory version and jurisdiction. Subsequent treatment is unverified unless identified sources are expressly stated. Downloading does not create a professional engagement. Obtain case-specific advice before reliance.