Principal Commissioner of Income Tax-1, Kolkata v. Apollo Gleneagles Hospital Limited

ITAT/166/2024 (IA No: GA/2/2024)

ITAT/166/2024 (IA No: GA/2/2024) (High Court at Calcutta, 2025-01-31) | 2025-01-31

The Revenue appeal was dismissed and the questions answered against it.

Income-tax Act, 1961: 260A

High Court at Calcutta | Division Bench | T. S. Sivagnanam | Hiranmay Bhattacharyya

Assessment years: 2013-14

01 FACTS OF THE CASE

Revenue's section 260A appeal challenged the Tribunal's 27 April 2023 order in ITA1639/Kol/2019 for AY2013–14. Its proposed questions characterised management/support services from the foreign associated enterprise as stewardship services warranting a nil arm's-length price and questioned proof of benefit. CIT(A)'s 22 May 2019 order had given the assessee partial relief.

Source: Opening and proposed questions, PDF pp.1–2; appellate history pp.2–3

02 DISCUSSION BY THE HON'BLE COURT

The AO had relied entirely on the preceding year's TPO order without a fresh reference. That earlier order had been reversed by CIT(A), with the earlier-year relief remaining final after low-tax-effect dismissal. Independently, the High Court found that CUP was selected without even one comparable company providing similar services. The assessee had supplied details of services and benefits, and CIT(A) and the Tribunal examined the facts. The Tribunal also noted acceptance of management fees without addition in AY2014–15 and AY2015–16.

Source: Reasons, PDF pp.2–3

03 JUDICIAL DECISION

The Court found no ground to interfere with the Tribunal's factual reappraisal. Revenue's appeal was dismissed and the substantial questions of law were answered against Revenue.

Source: Concluding reasons and operative paragraph, PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

Assessee-favourable result: the Tribunal's dismissal of Revenue's appeal survived. The Court did not declare every intra-group fee compensable or approve an unidentified numerical comparable price.

Source: Reasons and disposition, PDF pp.2–3

05 EXPERT COMMENTS

A nil price needs a defensible benchmarking basis — The decisive defect was selection of CUP without a single comparable company furnishing a similar service, alongside evidence of services and benefits already considered on appeal. Calling a charge stewardship did not cure that gap. For another transaction, examine the actual service evidence and comparable analysis; a contract or invoice alone is not the finding recorded here.

Consistency reinforces the facts without replacing annual examination — The Court noted reliance on the earlier TPO order without a fresh reference and acceptance in two later years. Those circumstances supported the result on this record. Earlier-year closure on low tax effect is not a merits adjudication by a higher court, and this order should not be expanded into automatic acceptance of all future charges.

Distinguish Revenue's questions from the Court's answer — The benefit-test and OECD stewardship propositions appear in Revenue's proposed questions. The Court sustained the appellate factual evaluation and answered the questions against Revenue. A summary presenting those proposed questions as findings that no service or benefit existed would reverse the outcome.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court at Calcutta source judgment/order

Complete 3-page source PDF; corrected note based on this document.

All 3 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Source-era statutory provisions only; no Income-tax Act, 2025 equivalence asserted.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not 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.

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