Pr. Commissioner of Income Tax (Central)-2 v. KKM Management Centre Pvt. Ltd.

ITA 193/2023 (CM Appl. 15569/2023)

2023:DHC:2721-DB; ITA 193/2023 | 2023-03-29

Secondment costs: documented services, taxed professional fees and consistent prior treatment sustain deletion of 50% disallowance.

Income-tax Act, 1961: 260A

High Court of Delhi | Division Bench | Rajiv Shakdher, J. | Tara Vitasta Ganju, J.

Assessment years: 2013-14

01 FACTS OF THE CASE

For AY 2013-14, KKM paid Godfrey Philips India Ltd. Rs.14,33,55,806 at cost without markup under a secondment agreement dated 30 May 2011. It earned Rs.22,74,50,000 professional fees using those employees, approximately Rs.17 crore from GPI, and served other group companies too. The AO disallowed 50%, Rs.7,16,77,903, treating the agreement as not genuine. CIT(A) reversed on 8 February 2018 and ITAT affirmed on 14 October 2021.

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02 DISCUSSION BY THE HON'BLE COURT

The Court noted undisputed use of secondees to provide professional services and that the resulting income was offered to tax. Revenue had not previously objected to the continuing arrangement. Applying consistency under Radhasoami Satsang while distinguishing strict res judicata, the Court found no perversity in the concurrent factual findings and declined interference under section 260A.

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03 JUDICIAL DECISION

No substantial question of law arose and the appeal was closed. The 240-day filing delay had separately been condoned without opposition.

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04 OUTCOME / IN WHOSE FAVOUR

Deduction of the disputed secondment cost survived for AY 2013-14. The Tribunal's common order also concerned AY 2014-15, but that is not the year identified for this High Court appeal.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

Services to group clients were part of the income-generating activity — Revenue sought to justify the 50% cut because employees served GPI and other group companies. The recorded answer was that KKM itself provided those professional services and offered the fees to tax. A comparable claim should connect payroll cross-charges, seconded work and earned fees; group association alone neither proves nor disproves that business connection.

Consistency works with factual support — The Court relied on prior acceptance and non-perverse findings from both appellate authorities, expressly acknowledging that strict res judicata does not apply. The precedent supports examining continuity of the arrangement and evidence, rather than assuming a deduction can never be questioned in a later year. The historical AY 2011-12 reference should not be used to invent a different agreement date.

Deduction relief is not a general secondment tax classification — The quoted CIT(A) passage records the taxpayer's TDS submission, but the High Court did not decide a specific withholding provision, treaty treatment or indirect-tax liability. Its result concerns the cost disallowance on the established service facts. Those separate issues cannot be resolved merely by describing a payment as cost reimbursement without markup.

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SOURCE & VERIFICATION

High Court of Delhi source judgment/order

Complete 6-page source PDF; corrected note based on this document.

All 6 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All six original pages read and visually inspected; distinct appeal year and source chronology qualification retained.

STATUTORY SCOPE

The order concerns secondment-cost deduction, citing section 260A. It dates the agreement 30 May 2011 but says the arrangement operated since AY 2011-12; that historical wording is not independently reconciled.

LATER TREATMENT

Source checked 2026-10-21. Subsequent 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.

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