

## **M/S. Concentrix Services Netherlands ... vs Income Tax Officer (Tds) & Anr on 17 November, 2020**

**Author: Manmohan**

**Bench: Manmohan, Sanjeev Narula**

\$~Suppl. -4

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) 9051/2020 & CM APPL. 29194/2020

M/S. CONCENTRIX SERVICES NETHERLANDS B.V. .... Petitioner

Through: Mr. Deepak Chopra with Mr. Abhimanyu  
Chopra and Mr. Ankul Goyal, Advocates.

versus

INCOME TAX OFFICER (TDS) & ANR. .... Respondents

Through: Ms. Lakshmi Gurung, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 17.11.2020 The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

Present writ petition has been filed for quashing of the certificate dated 16th September, 2020 issued by the first respondent with approval of the second respondent directing Concentrix Daksh to deduct tax at the rate of 10% at the time of payment of dividend of INR 100 crores to petitioner between 16th September, 2020 to 31st March, 2021 and for quashing of reasons issued vide letter 01st July, 2020.

Petitioner also prays for allowing Concentrix Daksh to remit dividend of INR 100 crores to Petitioner after deducting TDS @ 5% in terms of the Protocol to the DTAA between India and Netherlands at the time of payment.

Petitioner submits that the stand of the respondent that lower rate of tax would not be applicable on the premise that Protocol to the DTAA between India and Netherlands has not been ratified by India is a wholly erroneous premise for denying the Petitioner the benefit of the Protocol.

Petitioner relies on the judgment of this Court in the case of Steria (India) Ltd. Vs. CIT (2016) (386 ITR 390) which held that once the DTAA has itself been notified and contains the Protocol, there is no need for the Protocol itself to be separately notified.

The Petitioner also relies on the order passed by the Karnataka High Court in the case of Apollo

Tyres Ltd. vs. CIT [2018] 92 taxmann.com 166 (Karnataka) wherein while interpreting the protocol to India-Netherlands DTAA, the Karnataka High Court had held that the protocol provides for automatic application of subsequent treaty to India-Netherlands DTAA and no separate notification is envisaged in the Protocol.

Issue notice.

Ms. Lakshmi Gurung, learned counsel for respondents accepts notice. She prays for and is permitted to file a counter affidavit within six weeks.

Rejoinder affidavit, if any, be filed within two weeks thereafter. List on 21st January, 2021.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J SANJEEV NARULA, J NOVEMBER 17, 2020 AS