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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 486/2023**

AB MEDICOS PRIVATE LTD Appellant

Through: Mr Ruchesh Sinha, Adv.

versus

INCOME TAX OFFICER WARD 1(1) & ANR. Respondent

Through: Mr Shubhendu Bhattacharyya, Adv
for Mr Kunal Sharma, Adv Sr St
Counsel.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **25.08.2023**

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 43926/2023

1. Allowed, subject to the appellant filing legible copies of the annexures, at least three days before the next date of hearing.

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2. This appeal concerns Assessment Year (AY) 2015-16.

3. *Via* this appeal, the appellant/assessee seeks to assail the order dated 15.03.2023 passed by the Income Tax Appellate Tribunal [in short, "The Tribunal"].

4. The appellant/assessee is aggrieved by the addition made to its taxable income with regard to money received on account of share capital, the ultimate beneficiary of which was the entity going by the name of Rockland Hospital Limited [hereafter referred to as "Rockland"]. The amount involved is Rs. 2,19,99,903/-.

5. Evidently, this amount has been added to the income of the ultimate

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beneficiary, i.e., Rockland.

6. For this purpose, our attention is drawn to the assessment order dated 26.12.2017 passed *qua* the said entity for the very same AY, i.e., AY 2015-16.

7. The record seems to suggest that a similar position obtained *vis-à-vis* for previous AY, i.e., AY 2014-15.

8. In our view the matter requires consideration.

9. Accordingly, the appeal is admitted.

10. The following questions of law are framed for consideration:

(i) Whether the Tribunal misdirected itself on facts and in law for failing to take into account that the amount sought to be added to the taxable income of the appellant/assessee had already been added in the hands of the ultimate beneficiary, i.e., Rockland?

(ii) Whether the Tribunal misdirected itself on facts and law in applying the provisions of Section 68 of the Income Tax Act, 1961 [in short, "The Act"] to the appellant/assessee, when it only acted as a pass-through entity for the transaction in issue?

11. Counsel for the parties will file the record that was made available to statutory authorities for the progress of this appeal, within next eight [8] weeks.

12. List the matter on 15.12.2023.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

AUGUST 25, 2023/R.Y

[Click here to check corrigendum, if any](#)