आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'एच ' मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL "H" BENCH, MUMBAI

BEFORE S/SHRI B.R.MITTAL,(JM) AND SANJAY ARORA (AM
सर्वश्री बी.आर.मित्तल, न्यायिक सदस्य एवं श्री संजय अरोड़ा, लेखा सदस्य, लेखा सदस्य के समक्ष

आयकर अपील सं./I.T.A. Nos.7916 & 7917/Mum/2011
(निर्धारण वर्ष / Assessment Years: 2008-09 & 2009-2010)

Health India TPA Services Pvt Ltd.,Anand Commercial C. Compound, 103-B, L.B.S Marg, Gandhi Nagar, Vikhroli(W) Mumbai 400083	बनाम/ Vs.	ITO (OSD) (TDS) 1(1) Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCB4953D		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	Shri D.V. Lakhani
प्रत्यर्थी की ओर से/Respondent by :	Shri Rajarshi Dwivedi

सुनवाई की तारीख / Date of Hearing : 10.4.2013
घोषणा की तारीख /Date of Pronouncement : 17.4.2013

आदेश / O R D E R

Per B.R.Mittal, JM:

The assessee has filed these appeals for assessment years 2008-2009 and 2009-2010 against orders of ld CIT(A) both dated 10.10.2011 on identical grounds except the amount of levy of interest u/s.201(1A) of the Act varies.

2. Both these appeals are arising out of rectification orders passed under section 154 of the I.T.Act both dated 17.2.2011 to re-compute the levy of interest u/s.201(1A) of the Act.

3. At the time of hearing, it was brought to our notice that assessee also filed appeals for both the assessment years under consideration vz A.Ys. 2008-09 and 2009-10 being I.T.A. No.490 & 491/M/2011, which were arising out of orders passed by the

AO u/s.201 & 201(1A) r.w. orders of ld CIT(A) both dated 28.10.2010. In the said appeals, there was an issue of charging of interest u/s.201(1A) of the Act. The Tribunal by its order dated 6.3.2013 in the said appeals set aside the issue i.e. charging of interest u/s.201(1A) of the Act to the file of Assessing Officer to recalculate the interest considering the certificates to be produced in case of each deductee and following the decision of Hon'ble apex Court in the case of Hindustan Coco-cola Beverages Pvt Ltd. vs. CIT, 293 ITR 226(SC).

4. Since the issue relating to charging of interest u/s.201(1A) of the Act has already been restored by the Tribunal in the appeals arising from the orders of ld CIT(A) dated 28.10.2010 and the present appeals before us are arising out of an order(s) passed by the Assessing Officer u/s.154 of the Act to rectify his order(s) giving effect to ld CIT(A)('s order dated 28.10.2010 which was passed on 13.1.2011, we are of the considered view that grounds of appeal now taken before us disputing the orders passed by the AO u/s.154 of the Act do not survive as charging of interest u/s.201(1A) is to be recomputed by the AO in view of restoring this issue by the Tribunal to his file vide order dated 6.3.2013 for both the assessment years under consideration. In view of above, we allow grounds of appeal taken by the assessee for statistical purposes with a direction that the AO will consider levy of interest u/s.201(1A) of the Act for both the assessment years under consideration afresh after considering details as may be filed by the assessee before him and in accordance with law. It is relevant to state that ld A.R. stated that AO has yet to pass the order giving effect to the order of the Tribunal dated 6.3.2013.

5. In view of above, both the appeals filed by assessee are allowed for statistical purposes.

परिणामतः निर्धारिती अपीलें सांख्यकीय उद्देश्य केलिए स्वीकृत की जाती है ।

Order pronounced in the open court on 17th April, 2013. .
आदेश की घोषणा खुले न्यायालय में दिनांकः 17th April,2013 को की गई ।

Sd/-	sd/-
(संजय अरोड़ा/SANJAY ARORA)	(बी.आर.मित्तल/B.R.MITTAL)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 17 /04 /2013

व.नि.स./ *Parida* , Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai