1. **<u>Section 206AA of the Act does not override the provisions of section 90(2) of the Act and therefore payments made to non-residents who did not furnish their PAN can be deducted as per rate prescribed in DTAA and section 206AA cannot be invoked to insist on tax deduction at rate of 20 per cent</u>** : TDS on payments made to non-residents It would suffice to note that section 206AA of the Act prescribes that where PAN is not furnished to the person responsible for deducting tax at source then the tax deductor would be required to deduct tax at the higher of the following rates, namely, at the rate prescribed in the relevant provisions of this Act; or at the rate/rates in force; or at the rate of 20%. In the present case, assessee was responsible for deducting tax on payments made to non-residents on account of royalty and/or fee for technical services. The dispute before us relates to the payments made by the assessee to such non-residents who had not furnished their PANs to the assessee. The case of the Revenue is that in the absence of furnishing of PAN, assessee was under an obligation to deduct tax @ 20% following the provisions of section 206AA of the Act. However, assessee had deducted the tax at source at the rates prescribed in the respective DTAAs between India and the relevant country of the non-residents; and, such rate of tax being lower than the rate of 20% mandated by section 206AA of the Act. The CIT(A) has found that the provisions of section 90(2) come to the rescue of the assessee. Section 90(2) provides that the provisions of the DTAAs would override the provisions of the domestic Act in cases where the provisions of DTAAs are more beneficial to the assessee. There cannot be any doubt to the proposition that in case of non-residents, tax liability in India is liable to be determined in accordance with the provisions of the Act or the DTAA between India and the relevant country, whichever is more beneficial to the assessee, having regard to the provisions of section 90(2) of the Act. **Deputy Director of Income-tax (IT -II), Pune *v.* Serum Institute of India Ltd, [2015] 68 SOT 254 (Pune - Trib.).**

2. **<u>Registeration u/s 12A cannot be denied to the educational institution, merely because it is otherwise eligible for exemption u/s 10(23C)</u>**
   The provisions of section 11 being general provision will not override the specific provisions of section 10(23C), are not relevant. On a plain reading of sections 12A, 12AA and 11, no restriction is found imposed therein for granting registration to a trust or institution imparting education. Moreover, the definition of 'charitable purpose' as contained under section 2(15) also recognizes education as one of the charitable activity. That being the case, registration under section 12AA cannot be denied to an educational institution, because it is otherwise eligible for exemption under section 10(23C). **[2015] 68 SOT 113 (Visakhapatnam - Trib.)(URO)**