

GAHC010302402019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : ITA/17/2022

PR. COMMISSIONER OF INCOME TAX
GUWAHATI 2, AAYAKAR BHAWAN, GS ROAD, GUWAHATI 781005

VERSUS

M/S ARIHANT INTERNATIONAL LTD.
216 SHREEMANTA MARKET, A.T ROAD, GUWAHATI 781001

Advocate for the Petitioner : MR. S CHETIA

Advocate for the Respondent : MS. N HAWELIA

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

27.05.2024

(Vijay Bishnoi, CJ)

This Income Tax Appeal is filed by the appellant being aggrieved with the order dated 12.07.2019 passed by the Income Tax Appellate Tribunal, Guwahati Bench, Guwahati whereby the appeal filed by the respondent has been allowed and the order passed by the Chief Income Tax Commissioner under

Section 120(4) of the Income Tax Act has been set aside, whereby the CIT has revised the assessment order passed by the Additional Commissioner of Income Tax. The Income Tax Appellate Tribunal has concluded that the Additional Commissioner of Income Tax was not authorised as Assessment Officer and only the Joint Commissioner of Income Tax can pass the assessment order. The Income Tax Appellate Tribunal has placed reliance on the decision of the Delhi High Court passed in **CIT vs. Pawan Kumar Garg** reported in **(2011) 334 ITR 240 (Delhi)**.

Learned counsel for the appellant has submitted that the appellant has submitted that as per the definition of Joint Commissioner of Income Tax, as provided in Section 2(28c) of the Income Tax Act, the Joint Commissioner of Income Tax includes Additional Commissioner of Income Tax and therefore, the Income Tax Appellate Tribunal has erred in setting aside the CIT's order.

It is to be noted that the Delhi High Court in **CIT vs. Pawan Kumar Garg** has dealt with a similar issue in detail and thereafter has concluded that an Additional Director of Income Tax cannot be treated as Joint Director of Income Tax. We are in perfect agreement with the decision of the Delhi High Court rendered in **CIT vs. Pawan Kumar Garg**. Hence, we do not find any substantial question of law arising in this I.T. Appeal. The same is therefore, dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant