THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

<u>I.T.T.A. No. 744 of 2014</u>

-
DATED:30.01.2015

Between:
The Commissioner of Income Tax-II,
Hyderabad.

… Appellant

And

M/s. Ganapati Ingots Pvt. Ltd.,
Hyderabad.

….Respondent

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A. No. 744 of 2014

Judgment: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred and admitted by the Revenue against the judgment and order of the learned Tribunal dated 10.8.2012 in relation to the assessment year 2005-06 on the following suggested questions of law:

(A) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was correct in law in holding that once finished flats are handed over by the Developer to the Assessee there was further need for the Assessee to incur huge expenditure on extra works and also there is no evidence of such expenditure ?

(B) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was correct in law in holding that the land held for road widening is to be valued and the value needs to be excluded from the total cost of the land for the purpose of closing stock, in spite of there being no evidence on record to show the same ?

(C) Whether, on the facts and in the circumstances of the case, the finding of the Appellate Tribunal was correct in law in holding that the assessee has shown profit of Rs.15,96,405/- on account of extra works whereas in reality, loss of Rs.6,83,595/- is shown by the assessee ?

(D) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was correct in law in holding that the value of unsold flat should not be taken into closing stock despite the fact that the assessee handed over possession of entire land to the Developer and also received constructed area of 4550 sq.ft., which includes unsold flat ?

(E) Whether, on the facts and in the circumstances of the case, the finding of the Appellate Tribunal on various issues can be said to be based on material on record ?

We have heard Mr.S.R. Ashok, learned senior counsel appearing for the Revenue and have gone through the impugned judgment and order of the learned Tribunal.

It appears, the learned Tribunal as well as the Commissioner of Income Tax (Appeals) after appreciating the fact held that the amount of income offered for taxation was reasonable and justified. We do not think that we should substitute our own appreciation, which is not simply permissible in exercise of jurisdiction under section 260-A of the Income Tax Act, 1961.

Hence, we do not find any element of law, much less any substantial question of law to admit the appeal.

The appeal is accordingly dismissed.

Consequently, the pending miscellaneous applications shall also stand closed. No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

30th January, 2015

Pnb