OD-50 & 51

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income tax)
ORIGINAL SIDE

IA No.GA 1 of 2021
In
ITAT 5 of 2021

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-1, KOLKATA
Vs
M/S. CONSORTIUM ENTERPRISES PVT LTD

AND

IA No.GA 2 of 2021
In
ITAT 5 of 2021

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-1, KOLKATA
Vs
M/S. CONSORTIUM ENTERPRISES PVT LTD

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 17th November, 2021.

Appearance:
Mr. Tilak MItra,Adv.
Mr. Asok Bhowmik, Adv.
…for the appellant.

Mr.Siddhartha Das, Adv.
Ms. Pritha Basu, Adv.
…for the respondent.

Re.: IA No.GA 1 of 2021

The Court : Heard Mr. Tilak Mitra, learned Counsel appearing for the appellant/Revenue and Mr. Siddhartha Das, learned Counsel appearing for the respondent/assessee.

We are satisfied with the reasons assigned in the affidavit filed in support of the petition and, therefore, we are exercising discretion to condone the delay in filing the appeal. Accordingly, the delay is condoned. The application is allowed.

This appeal of Revenue filed under Section 260A of the Income Tax Act (the 'Act' in brevity) is directed against the order dated 8th March, 2019 passed by the Income Tax Appellate Tribunal, B-Bench, Kolkata (the 'Tribunal') in I.T.(SS)A. No.88/Kol/2017 for the assessment year 2009-10.

The Revenue has raised the following substantial questions of law for consideration :

i) Whether on the facts and circumstances of the case and in law, the Learned Income Tax Appellate Tribunal, failed to distinguish the instant case from CIT –Vs- Kabul Chawla where absolutely no incriminating documents were found and additions were made as deemed dividend, whereas in this case, additions were made under section 68 based on statements by entry operators, cash trail, layering of unaccounted money through various bogus papers companies, which were unearthed during search based on prima facie evidences of clandestine operations adopted by Assessee to evade tax?

ii) Whether on facts and circumstances of the case and in law, the Learned Income Tax Appellate Tribunal has erred in not interfering in the decision of the Commissioner of Income Tax (Appeals) in which the Commissioner of Income Tax (Appeals) has allowed the appeal of the assessee observing that additions made by the Assessing Officer in the assessment order passed under section 153A/143(3) are not based on any incriminating documents/papers seized during the search operation without calling for remand report/comments?

It is submitted by the learned Counsel for the respondent/assessee that the assessee has availed the benefit of the Vivad Se Vishwas scheme and Form 4 has been issued to the assessee on 25th October, 2021.

In the light of the said development, we are not required to decide the questions of law framed in this appeal. Accordingly, the appeal stands disposed of and the substantial questions of law are left open.

The stay application being IA No.GA 2 of 2021 accordingly stands disposed of.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

s.pal/pa.