OD-4 & 5

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

IA No.GA/1/2021
In
ITAT 6 of 2021

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL-1),KOLKATA
Vs
M/S. RASHMI IRON INDUSTRIES PVT LTD

AND

IA No.GA/2/2021
In
ITAT 6 of 2021

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL-1),KOLKATA
Vs
M/S. RASHMI IRON INDUSTRIES PVT LTD

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 24th November, 2021.

Appearance:
Mr. Smarjit Roy Chowdhury, Adv.
Mr. Asok Bhowmik, Adv.
…for the appellant.

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

Re.: IA No.GA 1 of 2021

The Court : Heard Mr. Smarjit Roy Chowdhury, learned Counsel appearing for the appellant/Revenue and Mr. Siddharth 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 of 577 days in filing the appeal. Accordingly, the delay is condoned. The application is allowed.

Re.: IA No.GA/2/2021 in ITAT 6 of 2021

This appeal has been filed by the Revenue under Section 260A of the Income Tax Act (the 'Act' in brevity) and is directed against the order dated 12th December, 2018 passed by the Income Tax Appellate Tribunal, B-Bench, Kolkata (the 'Tribunal') in I.T. (SS).A. No.67/Kol/2017 for the assessment year 2010-11.

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

a) Whether on the facts and in the circumstances of the case and in law, the Learned Income Tax Appellate Tribunal (ITAT) 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 U/s 68 of the Income Tax Act, 1961 based on statements by entry operators, cash trail, layering of unaccounted money through various bogus paper companies, which were unearthed during search based on prima facie evidences of clandestine operations adopted by assessee to evade tax?

b) Whether on the facts and in the circumstances of the case that the Learned ITAT has erred in not interfering in the decision of the Ld. CIT(A), in which the Ld. CIT(A) has allowed the appeal of the assessee observing that additions made by the Assessing Officer in the assessment order passed U/s 153A/143(3) of the Income Tax

Act, 1961 are not based on any incriminating documents/papers seized during the search operation, without calling for remand report/comments?

Learned Counsel appearing for the respondent/assessee submitted that the assessee has availed the benefit of the Vivad Se Vishwas scheme and the department has issued Form 4 declaration on 27.10.2021. Recording the said submission, 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/pkd