Serial No. OD - 7

HIGH COURT AT CALCUTTA
(ORIGINAL SIDE)

ITA/48/2018

(Through Video Conferencing)

PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA
…………Appellant(s)

Through : Mr. Soumen Bhattacharjee, Advocate

v/s

EXIDE INDUSTRIES LIMITED
…………Respondent(s)

Through : Mr. J.P. Khaitan, Senior Advocate (V.C.)
Ms. Nilanjana Banerjee Pal, Advocate

Coram : HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE

HON'BLE MR. JUSTICE ANIRUDDHA ROY, JUDGE

O R D E R

1. The present appeal has been filed impugning the order dated March 2, 2016 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata in ITA No.170/Kol/2013 for the assessment year 2005-06. The appeal was admitted on May 11, 2018 for consideration of the following substantial question of law :

   "Whether the provision for royalty and technical fees payable by the assessee to a resident of Japan could be disallowed under Section 40(a)(i) of the Income Tax Act, 1961 in view of the Indo-Japan treaty for avoidance of double taxation?"

2. Learned counsel for the appellant pointed out that the amount of income involved with reference to the question of law for

consideration of which the present appeal was admitted, is ₹.70,67,245. Tax effect will be less than ₹.1 Crore if considered on the basis of disallowance made.

3. The same being below the minimum limit prescribed for filing of appeals in the High Court vide Circular No.17/2019 F.No.279/Misc.142/2007-ITJ(Pt.) issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, Judicial Section dated August 8, 2019, he may be permitted to withdraw the present appeal.

4. In view of the facts as stated above, the present appeal is dismissed as withdrawn, while keeping open the legal issue raised therein.

KOLKATA	**(ANIRUDDHA ROY)**	**(RAJESH BINDAL)**
25.02.2021	**JUDGE**	**JUDGE**

SN/TO.