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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITA/124/2018

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL 1, KOLKATA
VS.
AMRIT HATCHERIES PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date: December 2, 2021.

Appearance :
Mr. Sudarshan Lamba, Adv.
... for the appellant/revenue

Mr. Asim Choudhury, Adv.
... for the respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act, in brevity) is directed against the order dated 5th April, 2017 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata (Tribunal) in IT(SS)A No. 125 to 128/Kol/2016 for the assessment years 2008-09, 2010-11 and 2012-13. The revenue has raised the following substantial questions of law :

i) Whether on the facts and in the circumstances of the case the Learned Tribunal was justified in law in deleting the addition of Rs.5,19,954/- of interest income being not considered eligible for deduction under Section 80IB for the assessment year 2012-13?

ii) Whether on the facts and in the circumstances of the case the learned Tribunal was justified in law in upholding the order of CIT (A) in deleting the disallowances of the deduction claimed by the assessee under Section 80IB of the said Act by relying upon the decision of the Tribunal in assessee's own case in earlier years ?

iii) Whether on the facts and in the circumstances of the case the learned Tribunal was justified in law to uphold the order of the CIT (A) to dismiss the appeal of the revenue on the ground that, since the interest income and the interest expenses has direct nexus, therefore, netting of interest income against the interest expenses has to be allowed?

We have heard Mr. Sudarshan Lamba, learned standing counsel appearing for the appellant/revenue and Mr. Asim Choudhury, learned counsel appearing for the respondent/assessee.

Mr. Choudhury, learned counsel who have entered appearance on behalf of the respondent submitted that the respondent/assessee has been subjected to insolvency proceedings and an Insolvency Resolution Professional (IRP) has been appointed and therefore, he is unable to represent the respondent/assessee.

Learned standing counsel appearing for the appellant/revenue submitted on instruction from the department that the appeal should be dismissed on the ground of low tax effect. Recording such submission, the appeal is dismissed on the ground of low tax effect. Consequently, substantial questions of law are left open.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

RS/GH