OD-15

ITAT/1/2018
IA NO: GA/1/2018(Old No.GA/328/2018)
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX-4
VERSUS
NAVIN CHAND SUCHANTI

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 24th November, 2021

Appearance :-

Mr. Debasish Chowdhury, Adv.
... For Appellant
Mr. Sanjay Bhowmick, Adv.
... For Respondent

The Court : This appeal by the revenue filed under Section 260A of the Income Tax, 1961 (the Act, for brevity) is directed against the order dated 25th August, 2017 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata in ITA No. 799/Kol/2015 for the assessment year 2009-10. The revenue has raised the following substantial questions of law for consideration :-

a) Whether on the facts and circumstances of the case and in law, learned Income Tax Appellate Tribunal, Kolkata erred in deleting the addition of deemed dividend in the hand of the assessee as per the provisions of Section 2(22)(e) ?

b) Whether on the facts and circumstances of the case and in law, learned Income Tax Appellate Tribunal, Kolkata erred in holding that the advance as advance of salary relying on the judgment of the Hon'ble Allahabad High Court whereas in this particular case the word "advance" means such advance which carries with an obligation of repayment ?

We have heard Mr. Debasish Chowdhury, learned Standing Counsel appearing for the appellant revenue and Mr. Sanjay Bhowmick, learned Counsel appearing for the respondent assessee. It is submitted by the learned Counsel appearing for the respondent assessee that in paragraph 8 of the stay application the tax effect has been mentioned as Rs.20,52,777/-. Therefore, it is submitted that the appeal is hit by the Circular issued by the CBDT and that the same cannot be pursued by the Department on the ground of low tax effect.

In view of the submission made by the learned Counsel for the respondent assessee in paragraph 8 of the stay application, this appeal stands disposed of on the ground of low tax effect. Consequently, the subsequent questions of law are left open.

With the disposal of the appeal, the connected application also stands disposed of.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/S. Das
AR(CR)