OD-2

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

ITA/22/2013

COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA
Vs
M/S. PLUTO FINANCE PVT. LTD.

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : December 14, 2021.

Appearance:
Mr. Manabendra Nath Bandyopadhyay, Adv.
... for the appellant.

Mr. Bhaskar Sengupta, 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 23rd May, 2012 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata in ITA No. 596/Kol/2011 for the assessment year 2007-08.

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

(a) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal erred in law in allowing complete relief to the Assessee Company without considering and properly appreciating the relevant facts of the case in the light of the ratio of the relevant decision of the Hon'ble Supreme Court in the case of Medowell & Co.

Ltd. Vs. CTO Reported in 154 ITR 148 and CIT Vs. Durga Prasad More Reported in 82 ITR 540?

(b) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal erred in law in holding that the transaction of sale of shares by the Assessee Company, which ultimately resulted in loss, was genuine merely because the purchasers subsequently disposed off the shares at a loss?

We have heard Mr. Manabendra Nath Bandyopadhyay, learned counsel appearing for the appellant/Revenue and Mr. Bhaskar Sengupta, learned counsel appearing for the respondent/assessee.

The learned counsel for the appellant/Revenue submitted that this appeal is hit by the circular issued by the Central Board of Direct Taxes (CBDT) on account 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.)

As/RS