OD-6&7

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

ITAT/65/2017
IA NO: GA/2/2017(Old No.GA/636/2017)
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-2, KOLKATA
VERSUS
MADHUJAYANTI INTERNATIONAL LIMITED

ITAT/65/2017
IA NO: GA/1/2017(Old No.GA/635/2017)
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-2, KOLKATA
VERSUS
MADHUJAYANTI INTERNATIONAL LIMITED

BEFORE :

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

Date : 18th November, 2021

Appearance:-

Mr. Debasish Chowdhury, Adv.
... For Appellant
Ms. Swapna Das, Adv.
Mr. Akhilesh Gupta, Adv.
Mr. Siddhartha Das, Adv.
... For Respondent

The Court : We have heard Mr. Debasish Chowdhury, learned Standing Counsel appearing for the appellant/revenue and Ms. Swapna Das, learned Counsel appearing for the respondent/assessee. We are satisfied with the reasons assigned in the affidavit filed in support of the application for condonation of delay in filing the appeal. Accordingly, the delay in filing the appeal is condoned. The application being GA/1/2017 is allowed.

This appeal of revenue filed under Section 260A of the Income Tax Act (the `Act' in brevity) is directed against the order dated 13th November, 2015 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the `Tribunal') in ITA No. 683/Kol/2012 for the assessment year 2007-08.

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

(i) Whether on the facts and in the circumstances of the case the learned Tribunal was justified in law to uphold the decision of the CIT(A) in allowing Rs. 3,19,126/- representing employees contribution to Provident Fund without considering the clear provision of Section 2(24)(x) read with Section RWS 36(1)(v)(a) and the Explanation thereof ?

(ii) 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) by restricting the disallowance to the extent of 1% to the exempted Dividend Income without considering the provision of Section 14A ?

We have heard Mr. Chowdhury, learned Standing Counsel appearing for the appellant/revenue and Ms. Das, learned Counsel appearing for the respondent/assessee. The respondent/assessee has availed the benefit of the Vivad Se Biswas Scheme and Form 4 has been issued on 30th October, 2021. Learned Counsel for the respondent/assessee submitted that till date the assessee is yet to receive Form No. 5. In any event, since Form 4 has already been issued, we are of the view that the appeal can be disposed of giving liberty to both the parties to restore the appeal in the unlikely event of the application being rejected under the Vivad Se Biswas Scheme.

With the above liberty, the appeal stands disposed of.

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

It goes without saying that in the event appeal has to be heard on merits, the revenue will be entitled to urge the above mentioned substantial questions of law which they have framed for consideration.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/S.Das
AR(CR)