OD – 6

ORDER SHEET

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

ITA/30/2020

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-1, KOLKATA
VS.
TANUJ HOLDINGS PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date: December 1, 2021.

Appearance :
Mr. S. N. Dutta, Adv.
...for the appellant

Mr. Pratyush Jhunjhulwala, Adv.
Mr. S. Chunder, Adv.
Mr. S. Rudra, 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 20th January, 2016 passed by the Income Tax Appellate Tribunal "D" Bench, Kolkata in ITA Nos. 360/Kol/2015, 361/Kol/2015, 362/Kol/2015 and 363/Kol/2015 for the Assessment Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011.

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

1. Whether on the facts and in the circumstances of the case the Tribunal was justified in law in cancelling the order of the Commissioner of Income Tax passed under section 263 of the Act by holding that the order under section 153C of the Act passed by the Assessing Officer cannot be held erroneous and prejudicial to the interest of revenue ignoring the provisions of section 153C which clearly provides that the Assessing Officer has to assess/reassess total income and does not debar the Assessing Officer from going beyond the issues involved in the incriminating documents found during the search and its purported findings in this regard are arbitrary, unreasonable and perverse?
2. Whether on the facts and circumstances of the case the Tribunal was justified in law in holding that section 2(22)(e) of the Act is not applicable ignoring the facts that both the borrowing and lending companies are related entities within the meaning of section 2(22)(e) of the Act and the main business of the leading company was real estate development and not money lending and its purported findings in this regard are arbitrary, unreasonable and perverse?

We have heard Mr. S. N. Dutta, learned standing counsel for the appellant/Revenue and Mr. Pratyush Jhunjhunwala along with Mr. S. Chunder and Mr. S. Rudra learned counsel for the respondent/Assessee.

Learned standing counsel for the appellant submits that the appeal is hit by the circular issued by the CBDT on account of low tax effect.

Recording the said submission, the appeal stands disposed of accordingly. Consequently, substantial questions of law are left open.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

GH/sp3