OD-32

ITAT/72/2021
IA No.GA/2/2021

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

PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA

-Versus-

M/S. HEIGHT INSURANCE SERVICES LTD.

Appearance:
Mr. Debasish Choudhury, Adv.
...for the appellant.

Mr. J. P. Khaitan, Sr. Adv.
Mr. Ananda Sen, Adv.
Mr. Arnab Chakraborty, Adv.
Ms. Pragya Bhowmick, Adv.
Mr. Prasenjit Saha, Adv.
...for the respondent.

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

Date : 17th December, 2021.

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 22nd January, 2020 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the 'Tribunal' in short) in ITA No.2163/Kol/2017 for the assessment year 2009-10.

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

(i) *Whether on the facts and circumstances of the case and on Law the Learned ITAT was erred in granting relief to the assessee on account of additional operating expenses of Rs.29,55,98,684/- disallowed by the assessing officer in original assessment in absence of credible explanation for business expediency?*

(ii) *Whether on the facts and circumstances of the case and on Law the Learned ITAT was erred in granting relief to the assessee on account of addition of service charges for Rs.17,64,80,000/- disallowed by the assessing officer in original assessment in absence of credible explanation for business expediency?*

We have heard Mr. Debasish Choudhury, learned counsel for the appellant/revenue and Mr. J.P. Khaitan, learned senior counsel for the respondent/assessee.

It is not disputed before us that the Tribunal had followed the assessee's own case for the assessment year 2011-12 in ITA No.2266/Kol/2016. The said order was challenged by the revenue in ITAT No.4/2020 which was dismissed by judgment dated 16th December, 2021.

Thus, following the said decision, this appeal (ITAT/72/2021) is dismissed and the substantial questions of law are answered against the revenue.

In the result, the connected application for stay (GA/2/2021) also stands dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./S.Das