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ITAT/128/2018
IA No.GA/2/2018 (Old No.GA/903/2018)

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

PRINCIPAL COMMISSIONER OF INCOME TAX-2, KOLKATA

-Versus-

M/S. AGR AUTOMOBILES PVT. LTD.

Appearance:
Mr. P. K. Bhowmick, Adv.
...for the appellant.

Mr. Saurabh Bagaria, Adv.
Mr. Rites Goel, Adv.
...for the respondent.

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

Date : 13th 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 12th July, 2017 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (the 'Tribunal' in short) in ITA No.479/Kol/2014 for the assessment year 2010-11.

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

(i) *Whether on the facts and circumstances of the case the Learned Tribunal erred in law and on facts in* *deleting the addition of ₹12,82,98,524/- made by the Assessing Officer by disregarding that the said addition was based on stock statement furnished by the SBI, Commercial Branch, Varanasi on physical verification including details of purchases, stock and sales in quantity as well as in value?*

(ii) *Whether on the facts and in the circumstances of the case the Learned Tribunal erred in law in holding that no addition of difference in stock is warranted in the case were the Assessee adopts one stock value for the bank purpose and other for the Income Tax purpose?"*

We have heard Mr. P. K. Bhowmick, learned counsel for the appellant/revenue and Mr. Saurabh Bagaria, learned counsel for the respondent/assessee.

On carefully going through the order passed by the Commissioner of Income Tax (Appeals)-IV dated 18th November, 2013 and the order passed by the Tribunal, we find that the entire issue is fully factual. The assessing officer made the addition solely upon the value of the stock shown to the bank by the assessee. The correctness of such decision was tested by the CIT(A) as well as the tribunal and, on facts, found that the assessee was maintaining regular books of accounts and the books were duly accepted by the assessing office and the other statutory authorities, such as, sales tax authorities, excise department and no addition had been made by the assessing officer after rejecting the books and that neither purchase nor sales shown in the regular books were doubted.

Identical issue came up for consideration before the Division Bench of this Court in *Commissioner of Income Tax, Durgapur vs. Shib Sankar Das* reported in [2017] 83 taxmann.com 193 (Calcutta), wherein the Court held that the addition to the income of the assessee on the basis of difference in value of stock shown in the books of account as compared to the value of the stock shown to the bank to avail enhanced credit facilities, was not justified.

Thus, we find that no question of law much less substantial question of law arises for consideration. Hence, the appeal stands dismissed on the ground that there is no substantial question of law arises for consideration.

The connected application for stay (IA No.GA/2/2018 (Old No.GA/903/2018) also stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./K.Banerjee