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ORDER SHEET
IA NO. GA/2/2017
(Old No:GA/1308/2017)
ITAT/148/2017
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX KOLKATA IV
Vs
M/S PHILIPS ELECTRONICS INDIA LTD

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
And
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 15TH DECEMBER, 2021

Appearance:
Mr. Tilak Mitra, Adv.
Mr. A. Ganguly, Adv.
...For the Appellant

Mr. J. P. Khitan, Sr. Adv.
Mr. P. Jhunjhunwala, Adv.
Mr. A. K. Dey, Adv.
...For the Respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act (the 'Act', in brevity) is directed against the order dated 11th May, 2016 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (the 'Tribunal') in ITA Nos.1460 and 1545/Kol/2009 for the assessment year 2004-05.

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

"(a) Whether on the facts and in the circumstances of the case, the order of the Hon'ble Income Tax Appellate Tribunal, "C" Bench, Kolkata was perverse in not restoring back or setting aside the case of the assessee to the file of the A.O. in spite of clear finding of the A.O. that the benefit derived by the assessee by way of remission in the liability was taxable receipt in its hands?"

We have heard Mr. Tilak Mitra, learned Standing Counsel appearing for the appellant/revenue and Mr. J.P. Khitan, learned Senior Counsel assisted by Mr. A. K. Dey, Learned Advocate appearing for the respondent/assessee.

The substantial question of law raised by the revenue is squarely covered against the revenue in the light of the decision of the Hon'ble Supreme Court in the case of Commissioner of Income Tax-6, Mum. V. Balkrishna Industries Ltd. reported in [2017] 88 taxmann.com 273(SC) where in sales tax Deferral Scheme, option was given to assessee to approach the State Industrial and Investment Corporation for premature payment and discharge of liability whether doing so would amount to remission or cessation of liability. The Hon'ble Supreme Court held that it would not amount to remission or cessation of liability.

In the light of the aforesaid decision, we have no option but to reject the appeal of the revenue. Accordingly, the appeal is dismissed and the substantial question of law is answered against the revenue.

The application being GA No. IA NO.GA/2/2017 (Old No. 1308/2017) is disposed of accordingly.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

pkd./S.De