OD-64

ORDER SHEET
ITAT/158/2018
IA NO:GA/1/2018(OLD NO.GA/1151/2018)
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION(INCOME TAX)
ORIGINAL SIDE

M/S. SAPPHIRE VANIJYA PVT. LTD. & ANR.
-VS-
INCOME TAX OFFICER, WARD-2(4), KOL. & ORS.

BEFORE:
HON'BLE JUSTICE T.S. SIVAGNANAM
AND
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

DATE: 16TH NOVEMBER 2021.

Mr. S. Agarwal,, Adv., for appellant/petitioner.
None for respondent.

The Court: This appeal by the assessee, filed under section 260A of the Income Tax Act, 1961, is directed against the order dated December 8, 2017, passed by the Income Tax Appellate Tribunal 'B' Bench, Kolkata, in ITA No.855/Kol/2015, for the assessment year 2008-09.

The assessee has raised the following substantial questions of law:

“(a) Whether the Learned Tribunal was justified in holding that the first proviso to Section 68 which has been inserted by the Finance Act, 2021 w.e.f. 1.4.2013 applies to the Assessment Year: 2008-2009?

(b) Whether on the facts and circumstances of the case, the Learned Tribunal is correct in holding that the alleged lack of proper enquiries as to the issue of share capital/premium in the course of proceedings under section 147 is to be considered as erroneous and prejudicial to the interest of revenue even though the re-opening was done for the specific purpose of taxing wrongly claim of share expenses of Rs.9,000/- escaping assessment which was not accounted for due to mistake?”

We have heard Mr. Agarwal, learned counsel appearing for the appellant.

The Tribunal had, by the impugned order, dismissed the assessee’s appeal following the decision of the Hon’ble Division Bench of this Court in the case of Raj Mandir Estates (P) Ltd. –vs- Principal CIT, 386 ITR 162 (Calcutta). The said decision of this Hon’ble Court was assailed before the Hon'ble Supreme Court and the Special Leave Petitions, by order dated November 29, 2017, have been dismissed by the Hon'ble Supreme Court.

Thus, the entire issue has reached finality. We find no error in the order passed by the Tribunal.

The questions of law are answered against the assessee.

Accordingly, the appeal along with the connected stay application stand dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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