OD-10&11

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

ITAT/207/2017
IA NO: GA/2/2017(Old No.GA/1806/2017)
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL, KOLKATA-2
VERSUS
JEWEL INDIA JEWELLERS

ITAT/207/2017
IA NO: GA/1/2017(Old No.GA/1805/2017)
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL, KOLKATA-2
VERSUS
JEWEL INDIA JEWELLERS

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 18th November, 2021

Appearance:-

Mr. Smarajit Roy Chowdhury, Adv.
Mr. Arunava Ganguly, Adv.
... For Appellant
Mr. Bhaskar Sengupta, Adv.
... For Respondent

GA/1/2017

The Court : We have heard Mr. Smarajit Roy Chowdhury, learned Standing Counsel appearing for the appellant/revenue and Mr. Bhaskar Sengupta, learned Counsel appearing for the respondent/assessee. We are satisfied with the reasons assigned in the affidavit filed in support of the application for condonation of delay in filing the appeal. Accordingly, the delay in filing the appeal is condoned. The application being GA/1/2017 is allowed.

ITAT/207/2017

This appeal of revenue filed under Section 260A of the Income Tax Act (the `Act' in brevity) is directed against the order dated 1st June, 2016 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the `Tribunal') in ITA No. 2085/Kol/2013 for the assessment year 2009-10.

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

> "Whether on the facts and in the circumstances of the case the Hon'ble Income Tax Appellate Tribunal, "B" Bench, Kolkata was right in law to hold that there were no justifiable reasons to reject the method employed by the assessee for valuation of the closing stock of gold ?"

We have heard Mr. Roy Chowdhury, learned Standing Counsel appearing for the appellant/revenue and Mr. Sengupta, learned Counsel appearing for the respondent/assessee.

The only question involved was whether the Tribunal was justified in affirming the view taken by the Commissioner of Income Tax (Appeal) [in brevity, CIT(A)] in the method of valuation of the closing stock of gold as adopted by the assessee. We find from the order passed by the CIT(A) as well as the Tribunal that the factual position has been analysed in depth and it has been pointed out that the assessee has been consistently following L.I.F.O method for valuation of the closing stock of gold and the same has been accepted by the revenue in the earlier years even in a scrutiny assessment proceedings under Section 143(3) of the Act. That apart, the Tribunal on consideration of the facts found that the Assessing Officer has not recorded any clear finding in his order that the L.I.F.O method of accounting followed by the assessee for valuing its closing stock did not reflect the correct profit. In fact, the working made by the assessee was never questioned by the Assessing Officer but faulted the assessee only for the method adopted by them. The undisputed fact being that the said method has been followed by the assessee consistently for several assessment years which have been accepted by the revenue and if such is the undisputed position, the Assessing Officer cannot find fault in the method adopted by the assessee for the relevant Assessment year. Thus, we find that the matter is entirely factual and there is no question of law, much less substantial questions of law, arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed.

With the dismissal of the appeal, all connected applications are accordingly dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/S.Das
AR(CR)