OD-58

ITAT/213/2017
IA No.GA/1/2017 (Old No.GA/1855/2017)

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

M/s. TATA GLOBAL BEVERAGES LIMITED

-Versus-

PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-II

Appearance:
Mr. Avra Majumdar, Adv.
...for the appellant.

Mr. Smarajit Roychowdhury, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 17^{th} November, 2021.

The Court : This appeal of assessee filed under Section 260A of the Income Tax Act (the 'Act' in brevity) is directed against the order dated 31^{st} January, 2017 passed by the Income Tax Appellate Tribunal, E-Bench, New Delhi (the 'Tribunal') in ITA No.1498/Del/2014 and ITA No.2283/Del/2014 for the assessment year 2008-09.

The assessee has raised the following substantial questions of law for consideration :

"(i) Whether the conditions precedent for imposition of penalty under section 271(1)(c) of the Income Tax Act, 1961 were fulfilled or satisfied in the case of the assessee for the assessment year 2008-09?

(ii) Whether the tribunal was justified in law in reversing the order of the Commissioner of Income Tax (Appeals) containing the finding that failure to add back provision for doubtful debts of Rs.1,86,97,396/- was on account of human error and bona fide mistake and its purported findings in that behalf are arbitrary, unreasonable and perverse?

(iii) Whether the tribunal was justified in law in upholding the imposition of penalty with reference to provision for salary payable to the Managing Director found to be in excess to the extent of Rs.1,75,742/- (written back and offered to tax in the subsequent year) and its purported findings in that behalf are arbitrary, unreasonable and perverse?"

We have heard Mr. Avra Majumdar, learned counsel for the appellant/assessee and Mr. Smarajit Roychowdhury, learned standing counsel for the respondent/revenue.

The learned Counsel for the appellant has circulated a copy of the letter dated 16th November, 2021 addressed by his client wherein they have requested to withdraw this appeal. The reason being that the ITAT order against which the appeal was filed before this Court has been recalled by the Delhi Tribunal vide order dated 25th August, 2017. A copy of the said order has also been placed before us for perusal.

In the light of the same, the appeal stands dismissed as withdrawn and the substantial questions of law are left open.

The connected application also stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./S.Das.