OD-59

ITAT/228/2017
IA No.GA/1/2017 (Old No.GA/1997/2017)

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

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-2, KOLKATA

-Versus-

M/s. HOOGHLY MILLS PROJECTS LIMITED

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

Mr. Asim Choudhury, Adv.
...for the respondent.

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

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 6th January, 2017 passed by the Income Tax Appellate Tribunal, C-Bench, Kolkata (the 'Tribunal') in ITA No.422/Kol/2014 for the assessment year 2006-07.

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

"(a) Whether on the facts and in the circumstances of the case the Hon'ble Income Tax Appellate Tribunal, "C"

Bench, Kolkata erred in law in dismissing the appeal filed by the Revenue on the sole ground that the revision order underlying the impugned CIT(A) order had already been cancelled by the tribunal without appreciating that an appeal had been filed by the Revenue before the Hon'ble High Court challenging the order cancelling such underlying revision order?

(b) Whether on the facts and in the circumstances of the case the Hon'ble Income Tax Appellate Tribunal, "C" Bench, Kolkata erred in law by setting aside the impugned order merely on the grounds that the proceedings are infructuous, the Learned Tribunal failed to comprehend that in the event the income tax department succeeded before the High Court in ITAT No.153/2017 arising from the order dated 26th October, 2016 passed by the tribunal in ITA No.549/Kol/2011 in such circumstances the income tax department would face extreme prejudice to thereafter continue the proceedings against the respondents culminating in loss of the revenue to the exchequer?"

We have heard Mr. Bhowmick, learned counsel for the appellant/revenue and Mr. Chowdhury, learned counsel for the respondent/assessee.

The present appeal is connected to an appeal ITAT 153 of 2017 which has been dismissed by a judgment dated 17th November, 2021. The present appeal arises out of an order passed by the Tribunal dismissing the revenue's appeal as having become infructuous because of the order passed by the Tribunal which was impugned before us in ITAT/153/2017.

Since the substantial issue has already been decided in the said appeal (ITAT/153/2017), nothing survives for consideration in this appeal.

Accordingly, the present appeal stands disposed of. All connected applications stand closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./S.Das.