OD – 3

ORDER SHEET

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

ITA/13/2015

COMMISSIONER OF INCOME TAX, KOLKATA-2, KOLKATA
VS.
KALYANPUR CEMENTS LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date: December 1, 2021.

Appearance :
Mr. S. N. Dutta, Adv.
...for the appellant

Mr. Avra Mazumder, Adv.
...for the respondent

The Court : This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 14th October, 2014 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata in ITA Nos. 1396/Kol/2011 and ITA No. 1397/Kol/2011 for the Assessment Years 2006-07 and 2007-08.

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

1. Whether on the facts and in the circumstances of the case, the Learned Income Tax Appellate

Tribunal erred in law in allowing repair of plant and machineries of Rs.5,26,46,000/- pertaining to earlier years in the current year though only current repair is allowable as deduction under the head repair and maintenance?

2. Whether on the facts and in the circumstances of the case, the Learned Income Tax Appellate Tribunal erred in law in holding that the case of the assessee falls within the exception to the explanation to Section 73 of the Act though neither the assessee was engaged in the business of granting loans and advances nor the gross total income consists mainly of income which is chargable under the head "interest on securities", income from house property and income from other sources?

We have heard Mr. S. N. Dutta, learned standing counsel for the appellant/Revenue and Mr. Avra Mazumder, learned counsel for the respondent/Assessee.

Learned standing counsel for the appellant submits that the appeal is hit by the circular issued by the CBDT on account of low tax effect.

Recording the said submission, the appeal stands disposed of accordingly. Consequently, substantial questions of law are left open.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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