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ITAT/206/2018
IA NO: GA/1/2018(Old No.GA/2132/2018)
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

COMMISSIONER OF INCOME TAX (IT & TP), KOLKATA
VERSUS
M/S. PRICE WATERHOUSE COOPERS LLP USA

BEFORE :

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

Date : 30th November, 2021

Appearance :-

Mr. S.N. Dutta,
Mr. Ashok Bhowmick, Advs.
... For Appellant
Ms. Neelanjana Banerjee Pal, Adv.
... For Respondent

The Court : This appeal by the assessee filed under Section 260A of the Income Tax Act, 1961 (the Act, for brevity) is directed against the order dated 14th February, 2018 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata in ITA No.540/Kol/2015 for assessment year 2010-11. The appellant has raised the following questions of law for consideration :-

"(i) Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal, "C" Bench, Kolkata

has erred in law in quashing the order passed under Section 263 of the Income Tax Act, 1961?

(ii) Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal, "C" Bench, Kolkata has erred by holding that the assessee has given the details of nature of payment, invoice data, gross fee etc. while those were not submitted during the assessment proceedings under Section 143(3) dated March 19, 2013 which order has been set aside by CIT (IT & TP), Kolkata under Section 263 of the Income Tax Act, 1961?

(iii) Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal, "C" Bench, Kolkata has erred in law by holding that the services rendered outside India are receipts which are not taxable in India under Article 15 of the Double Taxation Avoidance Agreement while the assessee has itself accepted that he has no supporting evidence for the invoices aggregated to Rs.1,43,95,146/- in order to prove that the related services were not performed in India as per paragraph 6 of the Assessment Order passed under Section 143(3) read with Section 263 dated March 22, 2016?

(jv) Whether the impugned order is bad, arbitrary, illegal, perverse and the same is nothing but a total non-application of mind of the Income Tax Appellate Tribunal, Kolkata and the same is liable to be set aside and/or quashed?"

We have heard Mr. S.N. Dutta, learned Standing Counsel appearing for the appellant revenue and Ms. Neelanjana Banerjee Pal, learned Counsel appearing for the respondent assessee.

It is submitted on behalf of the appellant revenue that the present appeal cannot be pursued by the revenue on account of low tax effect. Accordingly, in view of the said submission, the appeal stands disposed of on the ground of low tax effect. However, substantial questions of law are left open.

The appeal and the connected application are, accordingly, disposed of.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/S. Das
AR(CR)