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ORDER SHEET

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

ITA/60/2012

COMMISSIONER OF INCOME TAX, KOLKATA-XI
VS.
SHRI KAJAL DAS

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 3rd January, 2012 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata in ITA No. 1131/Kol/2011 for the Assessment Year 2008-09.

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 Tribunal was justified in

deleting Rs.39,76,640/- which is due under Section 40(a)(ia) of the Income Tax Act, 1961, holding that there was neither oral nor written contract between the Assessee and the truck owners by failing to appreciate that the payment had been made directly to the truck/lorry owners on a regular basis which in itself indicates existence for a contract for execution of work?

2. Whether on the facts and in the circumstances of the case the Learned Tribunal is justified in not appreciating that had there been no contract between the truck/lorry suppliers with the Assessee then there would have been no requirement for payment to the truck owners instead of truck drivers?
3. Whether on the facts and in the circumstances of the case the Learned Tribunal is justified in not appreciating that the oral contract is also considered to be a contract for the purpose of Section 194C of the said Act?

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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