OD – 18 & 19

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
<u>ORIGINAL SIDE</u>

ITAT/248/2017
IA NO: GA/2/2017 (OLD NO: GA/2125/2017)

<u>IN THE MATTER OF</u> :
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA -20
VS
SHRI CHHANDAK CHAKRABORTY

ITAT/248/2017
IA NO: GA/1/2017 (OLD NO: GA/2124/2017)

<u>IN THE MATTER OF</u> :
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA -20
VS
SHRI CHHANDAK CHAKRABORTY

BEFORE :
THE HON'BLE JUSTICE T.S.SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATED : NOVEMBER 18, 2021.
[*Via Video Conference*]

<u>Appearance</u> :
Mr. Arunava Ganguly, Advocate
...for appellant
Mr. Siddharth Das, Advocate
Mr. G.S. Gupta, Advocate
..for respondent

The Court :- Heard Mr. Ganguly, learned Counsel appearing for the appellant and Mr. Das, learned Counsel appearing for the respondent/assessee.

We are satisfied with the reasons assigned in the affidavit filed in support of the petition and, therefore, we are exercising discretion to condone the delay in filing the appeal. Accordingly, the delay is condoned. The application is allowed.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act in brevity) is directed against the order dated 24th August, 2016 passed by the Income Tax Appellate Tribunal, Kolkata, Bench "A" Kolkata, in the I.T.A. Nos. 411 and 963/Kol/2016 relating to Assessment Year 2008-2009.

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

(i) Whether on the facts and circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law by deleting the addition made by the Assessing Officer upon admitting new evidence adduced by the Assessee/Respondent without giving any opportunity to the Assessing Officer to examine the same regarding the undisclosed cash deposit in the various Banks account of the Assessee/Respondent.

(ii) Whether on the facts and circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law that the evidence on record shows the Assessee/Respondent made unexplained cash deposit in various Banks while passing the impugned order which is perversed and not tenable in law.

(iii) Whether on the facts and circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law in not examining the genuineness of the evidences and not allowing the Assessing Officer to examine the documents produced before the Learned Income Tax Appellate Tribunal for the first time.

We have heard Mr. Ganguly, learned Counsel for the appellant/revenue. It is submitted by the learned Counsel for the appellant that the tax effect involved in this appeal is less than the threshold limit as per the circular issued by the CBDT.

For the aforesaid reasons the appeal stands dismissed on the ground of low tax effect and the substantial question of law are left open for consideration.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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