OD-36

ORDER SHEET
IA NO. GA/2/2018
(Old No: GA/2112/2018)
ITAT/238/2018
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX-4, KOLKATA
Vs
MACHINO TECHNO SALES PVT. LTD.

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
And
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 13TH DECEMBER, 2021

Appearance:
Mr. Debashis Chaudhry, Adv.
...For the Appellant

Mr. Malay Dhar, Adv.
Mr. Bhaskar Sengupta, Adv.
...For the Respondent

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the 'Act' for brevity) is directed against the order dated 18th October, 2017 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the 'Tribunal') in ITA No.1317/Kol/2015 and C.O. No.55/Kol/2015 for the assessment year 2011-12.

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

"(a) Whether on the facts and in the circumstances of the case, learned Income Tax Appellate Tribunal wrongly deleted the addition of Rs.3,74,41,906/- made by the assessing officer on account of disallowance of discount?

(b) Whether on the facts and in the circumstances of the case, learned Income Tax Appellate Tribunal erred in overlooking the fact that no sales, bill etc. were furnished during the course of assessment proceedings to validate discounts and Commissioner of Income Tax (Appeal), by way of admission to additional evidence upheld the appeal filed by the assessee, thereby violating provisions of Rule 46A of the Income Tax Rules, 1962?

(c) Whether on the facts and in the circumstances of the case, learned Income Tax Appellate Tribunal erred in deleting the addition of Rs.1,06,85,656/- made by the assessing officer on account of "advance received from customers" as unexplained cash credit under Section 68 of the Income Tax Act, 1961?"

Heard Mr. Debashis Chowdhury, learned Standing Counsel appearing for the appellant/revenue and Mr. Malay Dhar, learned Counsel appearing for the respondent/assessee.

We have carefully perused the order passed by the Commissioner of Income Tax (Appeal) [CIT(A)] as well as the tribunal. The first appellate authority and the tribunal have examined the facts in its entirety and more importantly noted that the business model followed by the assessee has been consistent, they being a dealer of Maruti Udyog Limited and in the earlier assessment years 2009-10 and 2010-11, which were scrutiny assessment under Section 143(3) of the Act, the assessments were completed without making any addition. The tribunal re-appreciated the facts and concurred with the CIT(A).

Thus, we find that there is no questions of law, much less substantial questions of law arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed.

With the dismissal of the appeal, the application being GA/2/2018 (Old No:GA/2112/2018) is also dismissed.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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