OD-14

ITAT/297/2017
IA No.GA/1/2017 (Old No.GA/2801/2017)

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

THE PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA

-Versus-

M/S. UMANG COMMERCIAL COMPANY PRIVATE LIMITED

Appearance:
Mr. Debasish Choudhury, Adv.
...for the appellant.

Mr. J. P. Khaitan, Sr. Adv.
Mr. P. Jhunjhunwala, Adv.
Mr. Siddhartha Das, Adv.
Ms. Swapna Das, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 29th November, 2021.

The Court : This appeal of the revenue filed under Section 260A of the Income Tax Act (the 'Act' in brevity) is directed against the order dated 8th March, 2017 passed by the Income Tax Appellate Tribunal, C-Bench, Kolkata (the 'Tribunal') in ITA No.1173/Kol/2016 for the assessment year 2011-12.

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

"a) Whether on the facts and circumstances and points of law involved in this case, the learned Income Tax Appellate Tribunal was justified quashing the revision order of the Commissioner of Income Tax without considering the fact that the assessment order of the assessing officer is erroneous and prejudicial to the interest of the revenue?

b) Whether on the facts and circumstances and points of law involved in this case, the learned Income Tax Appellate Tribunal ought to have held that the revisionary order passed by the Commissioner of Income Tax under Section 263 of the Income Tax Act, 1961 stands in the eyes of the law and by not holding the same erred in law?"

We have heard Mr. Debasish Chowdhury, learned Counsel for the appellant/revenue and Mr. J. P. Khaitan, learned senior counsel for the respondent/assessee.

The short question involved in the instant case is whether the commissioner is justified in exercising his jurisdiction under Section 263 of the Act? The commissioner was of the view that the assessing officer has not examined the records qua the disallowance under Section 14A of the Act. The tribunal tested the correctness of the said order and has pointed out as to how the assessing officer has furnished the detailed questionnaire to the assessee, received his response, perused all the records and has recorded the factual finding. The tribunal re-examined the same and found that the assessing officer had duly examined the aspect of interest paid on loans and interest received on loans in the assessment proceedings. Furthermore, the tribunal noted that the assessing officer had sent notices under Section 133(6) of the Act to the third parties and cross-verified the loan statements with their records and no adverse inference was drawn by the assessing officer. Thus, the tribunal came to the factual conclusion that the assessing officer had made elaborate enquiries on the issue of disallowance under Section 14A of the Act. That apart, the tribunal has also noted the decisions placed by the assessee with regard to the exercise of jurisdiction under Section 263 of the Act and held that no error can be attributed to the order passed by the assessing officer. Thus, we find that there is no good ground to interfere with the order passed by the tribunal much less no substantial question of law arising for consideration.

In the result, the appeal (ITAT/297/2017) fails and stands dismissed.

Consequently, the stay petition (IA No.GA/1/2017 (Old No.GA/2801/2017) is also dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./skc.