OD-11

ORDER SHEET
IA NO. GA/2/2017
(Old No:GA/3070/2017)
In ITAT/321/2017
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA 2
Vs
M/S. SPENCER'S RETAIL LIMITED

BEFORE:
The Hon'ble JUSTICE T. S. SIVAGNANAM
And
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 10TH DECEMBER, 2021

Appearance:
Mr. P. K. Bhowmik, Adv.
Mr. Arunava Ganguly, Adv.
...For the Appellant

Mr. Pratyush Jhunjhunwala, Adv.
Mr. A. K. Dey, Adv.
...For the Respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act (the 'Act' in brevity) is directed against the order dated 18th November, 2016 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the 'Tribunal') in ITA No.908/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 in the circumstances of the case the Learned Tribunal has erred in law in quashing the order of CIT passed under

Section 263 of the Income Tax Act, 1961, by disregarding the specific finding of the CIT that the assessing officer in course of assessment failed to examine at all the issues in question and there was under assessment and under charging of the tax ?

(b) Whether on the facts and in the circumstances of the case conclusion arrived at by the Learned Tribunal in quashing the order of the CIT passed under Section 263 of Income Tax Act, 1961 is perverse ?"

We have heard Mr. P. K. Bhowmik, learned Standing Counsel appearing for the appellant/revenue and Mr. Pratyush Jhunjhunwala, learned Counsel with Mr. A. K. Dey, Learned Advoate appearing for the respondent/assessee.

It is submitted by the Learned Counsel for the respondent that the assessee has availed the benefit of Vivad Se Biswas Scheme and Form-5 has been issued on 8th April, 2021.

In light of the same, the appeal stands disposed of on the said ground.

Consequently, the substantial questions of law are left open.

The application being GA No. IA NO.GA/2/2017 (Old No.3070 of 2017) is disposed of.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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