OD-65

ITAT/325/2017
IA NO: GA/1/2017(Old No.GA/3130/2017)
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PAWAN PUTRA NIRMAN
VERSUS
PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA & ANR.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 23rd November, 2021

Appearance:-

Mr. J.P. Khaitan, Sr. Adv.
Mr. Ananda Sen, Adv.
... For Appellant
Mr. Tilak Mitra, Adv.
... For Respondent

The Court : This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 (the Act, for brevity) is directed against the order dated 3rd May, 2017 passed by the Income Tax Appellate Tribunal, "D" Bench, Kolkata in ITA No.1958/Kol/2016 for assessment year 2008-09. The assessee has formulated following questions of law for our consideration :-

I. Whether on the facts and in the circumstances of the case, the Learned Tribunal inspite of documents being available on record and inspite of adequate submissions being made, which proved that invocation of jurisdiction under section 263 was wholly illegal, uncalled for and arbitrary the Learned Tribunal rather than quashing the order passed under section 263, could not at all set aside the order with directions to the respondent no. 1 to pass a fresh order and such action apart from being without and/or in excess of jurisdiction was perverse in law ?

II. Whether on the facts and in the circumstances of the case the Learned Tribunal could exercise the statutory power of setting aside mechanically and in a routine manner and that too for giving a second innings to the concerned authority when situation demanded quashing of the order passed under section 263 and whether such of passing an order of remand is perverse in law ?

We have heard Mr. J.P. Khaitan, learned Senior Counsel appearing for the appellant and Mr. Tilak Mitra, learned Standing Counsel appearing for the respondent revenue.

After elaborately hearing the learned Counsel for the appellant and the learned Standing Counsel for the respondent and carefully perusing the materials placed on record and the conclusion arrived at by the Tribunal in the impugned order, we find that no question of law arises for consideration before this Court, much less substantial questions of law. The Tribunal after going through the facts deemed it appropriate that the matter should be remanded back to the Commissioner of Income Tax since the earlier exercise done by the Commissioner was in violation of the principles of natural justice as the assessee was not put on notice.

We find the order passed by the Tribunal to be just and proper warranting no interference. That apart, we find that no substantial questions of law arise for consideration in this appeal. Accordingly the appeal fails and the same is dismissed. The order passed by the Tribunal is upheld.

With the dismissal of the appeal, the connected application is also dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/S. Das
AR(CR)