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ITAT/289/2018
IA No.GA/1/2018 (Old No.GA/3007/2018)

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

THE PRINCIPAL COMMISSIONER OF
INCOME TAX-3, KOLKATA

-Versus-

M/S. ITT SHIPPING PVT. LTD.

Appearance:
Mr. Smarajit Roychowdhury, Adv.
...for the appellant.

Mr. Abhratosh Majumdar, Sr. Adv.
Mr. Avra Majumdar, Adv.
...for the respondent.

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

Date : 17th December, 2021.

The Court : 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 1st June, 2018 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata (the 'Tribunal' in short) in ITA No.1014/Kol/2017 relating to the assessment year 2012-13.

The revenue has framed the following substantial question of law for consideration:

(i) *Whether on the facts and circumstances of the case, the Learned Income Tax Appellate Tribunal has erred in law in holding that the loss on forward contract is allowable for deduction as ordinary business loss instead of speculation loss upon misrepresentation of provisions of section 43(5) of the Income Tax Act, 1961 and Instruction No.3 of 2010 dated 23rd March, 2010 issued by the Central Board of Direct Taxes?*

We have heard Mr. Smarajit Roychowdhury, learned counsel for the appellant/revenue and Mr. Abhratosh Majumdar, learned senior counsel appearing with Mr. Avra Majumdar, learned advocate for the respondent/assessee.

The learned senior counsel for the respondent/assessee has submitted that though the question of law raised by the revenue is covered in favour of the assessee in several decisions, this appeal cannot be pursued by the revenue on account of low tax effect. The learned senior counsel has also drawn our attention to ground no.2 of the memorandum of appeal wherein it has been stated that overall tax effect involved in this appeal is Rs.75,95,580/-. The appellant does not dispute this position.

Therefore, this appeal (ITAT/289/2018) stands dismissed on the ground of low tax effect. Consequently, the substantial question of law raised is left open.

The connected application for stay (IA No.GA/1/2018 Old No.GA/3007/2018) also stands dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./S.Das