OD-15

ITA/82/2018

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

COMMISSIONER OF INCOME TAX,
KOLKATA-II, KOLKATA

-Versus-

M/S. TEA PROMOTERS (INDIA) PVT. LTD.

Appearance:
Mr. Debasish Chowdhury, Adv.
Mr. Soumen Bhattcharyya, Adv.
...for the appellant.

Mr. Mahaveer Jain, Adv.
Mr. Avra Majumdar, Adv.
...for the respondent.

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

Date : 20th January, 2022.

The Court : This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 (the 'Act' in brevity) is directed challenging the order dated 23rd November, 2012 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata (the 'Tribunal' in short) in ITA/1189/Kol/2008 for the assessment year 2005-06.

The revenue has raised the following substantial questions of law:

(i) *Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in deleting the disallowance of the claim of deduction of Rs.3,40,13,592/- made by the assessee under section 10B of the Income Tax Act, 1961 ?*

(ii) *Whether processing of tea can be considered as manufacturing for the purpose of Section 10A/10B of the Income Tax, 1961 for the Assessment Year 2005-06 when the "Processing" has been deleted fro the definition of manufacturing w.e.f. 01.04.2001 ?*

(iii) *Whether the impugned order is bad, arbitrary, illegal perverse and the same is nothing but a total non-application of mind of the concerned respondent and the same is liable to be set aside and/or quashed ?*

We have heard Mr. Debasish Chowdhury, learned counsel for the appellant/revenue and Mr. Mahaveer Jain, learned counsel for the respondent/assessee.

It is submitted by the learned counsel for the respondent that the assessee has availed the benefit of *Vivad-se-Viswas* Scheme and Form No.4 has been issued on 1st October, 2021.

In the light of the same, this appeal need not be proceeded further and the appeal stands disposed of on the ground that the assessee has availed the benefit of *Vivad-se-Viswas*

Scheme. Consequently, the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Das