OD-2

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITA/130/2018
PRINCIPAL COMMISSIONER OF INCOME TAX, KOL 3 - KOL
VS.
OBEROI HOTELS PRIVATE LTD.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE BIVAS PATTANAYAK
Date : 4th July, 2022.

Appearance:
Mr. Soumen Bhattacharjee, Adv.
…for appellant
Ms. Akshara Shukla, Adv.
…for respondent

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act for brevity) is directed against the order dated 20th November, 2015 passed by the Income Tax Appellate Tribunal "A" Bench Kolkata (Tribunal) in ITA Nos. 230, 233, 1030 & 1041/Kol/2012 for the assessment year 2007-08 and 2008-09.

The Revenue has suggested the following substantial questions of law for consideration :-

1) Whether on the facts and in the circumstances of the case the Ld. Tribunal has erred in law in holding that no disallowances can be made under Section 14A of the Income Tax Act, read with Rule 8D of the I.T. Rules

1962, in case of the assessee relating to assessments year 2007-08 and 2008-09 ?

2) Whether on the facts and in the circumstances of the case the Ld. Tribunal has erred in law in allowing the depreciation of Rs.10,76,681/- claimed by the assessee on Naila Fort Guest House at Jaipur which was ceased to be used for official purpose by disregarding that the assessee itself offered the said amount of Rs.10,76,681/- for addition to its total income by its letter dated 17.11.2009 for the assessment year 2007-08?

3) Whether on the facts and in the circumstances of the case the Ld. Tribunal has erred in law in allowing depreciation of Rs.9,71,476/- claimed by the assessee on Naila Fort guest House at Jaipur which was ceased to be used for official purpose for the assessment year 2008-09?

We have heard Mr. Soumen Bhattacharjee, learned standing Counsel for the appellant/revenue and Ms. Akshara Shukla, learned Advocate appearing for the respondent/assessee. The learned Standing Counsel has written instruction from the department vide letter dated 7.6.2022 stating that tax effect involved in this appeal is less than the threshold limit fixed by the CBDT vide Circular dated 8th August, 2019 and, therefore, instruction has been given to withdraw this appeal. Said instruction is placed on record.

Accordingly appeal stands dismissed as withdrawn.

Substantial questions of law, as suggested are left open.

(T.S. SIVAGNANAM, J.)

(BIVAS PATTANAYAK, J.)

Pkd/GH.