OD–1

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

ITAT/115/2018
PRINCIPAL COMMISSIONER OF INCOME TAX -4, KOLKATA
VS.
M/s. TANTIA CONSTRUCTION LIMITED

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : SEPTEMBER 9, 2022.

Appearance:
Mr. Aryak Dutta, Adv..
... for appellant
Mr. Avra Mazumder, Adv.
Mr. Binayak Gupta, Adv.
...for respondent

The Court:- This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 23rd September, 2016 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (Tribunal) in I T (SS) A NO. 58 and 60/Kol/2012 for the assessment years 2004-05.

The appeal was admitted on 11th November, 2019 to decide the following substantial questions of law :

i) Whether on the facts and in the circumstances of the case, the tribunal in the impugned order correctly appreciated and applied Section 80-IA and particularly, the explanation under sub-section 13 thereof with retrospective effect from 1st April, 2000?

We have heard Mr. Aryak Dutta, learned standing Counsel for the appellant and Mr. Avra Mazumder, learned Advocate duly assisted by Mr. Binayak Gupta, learned Advocate for the respondent.

The learned Advocate appearing for the respondent/assessee submitted that the application filed by the financial creditor under Section 7 of the Insolvency & Bankruptcy Code 2016 (IBC) before NCLT, Kolkata was admitted for initiating the corporate resolution process in respect of assessee company and the NCLT by order dated March 13, 2019 declared moratorium for the purposes of referring to in section 14 of the IBC. Further the NCLT has approved the resolution plan submitted by the company on 24th February, 2020. Since the resolution plan has already been approved, the instant appeal has become infructuous and accordingly stands dismissed without any order as to costs.

Further in the assessee's own case appeal filed by the revenue in ITA No. 20 of 2021 and I.T.A. No. 21 of 2021 for the other assessment years were also dismissed on similar grounds.

Consequently, the substantial questions of law raised in the instant appeal are left open.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

Pkd/GH