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

ITAT/9/2020
IA No.GA/2/2020 (OLD NO. GA/469/2020)
PRINCIPAL COMMISSIONER OF INCOME TAX -4, KOLKATA
VS.
M/S. JAGANNATH BANWARILAL TEXOFABS PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE BIVAS PATTANAYAK
Date : 27th July, 2022

Appearance :
Ms. Smita Das De,, Adv…for the appellant.

Mr. Swapna Das, Adv. Mr. Siddhartha Das, Adv.,
….for respondent.

The Court *:* This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act for brevity) is directed against the order dated 26th October, 2018 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata (Tribunal) in I.T.A. No. 1762/Kol/2016 for the A.Y. 2012-13.

The revenue has raised the following substantial questions of law for consideration :

i) Whether in the facts and circumstances of the case and in law, the Income Tax Appellate Tribunal has erred in deleting the addition made by the assessing officer under section 68 of the Income Tax Act, 1961 in spite of the fact that share investors were not found in their given address ?

ii) Whether on the facts and in the circumstances of the case the learned Income Tax Appellate Tribunal, Kolkata has erred in deleting addition made by the Assessing Officer under section 68

> of the Act though identity and creditworthiness of the investors in shares of the assessee company were not established beyond doubt before the assessing officer ?

We have heard Ms. Smita Das De, learned Advocate appearing for appellant and Ms. Swapna Das, Advocate duly assisted by Mr. Siddhartha Das, Advocate appearing for respondent.

It is submitted by the learned Advocate for the respondent that the respondent/assessee has availed benefit of *Vivad Se Vishwas* Scheme and form III has been issued on 4th March, 2021.

In the light of the same the appeal stands disposed of on the ground that the respondent/assessee has availed the benefit of the said scheme.

Consequently the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(BIVAS PATTANAYAK, J.)

Pkd/GH