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

ITA/44/2010
COMMISSIONER OF INCOME TAX, KOLKATA-II, KOLKATA
VS.
M/S. OFF-SHORE INDIA LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : 16th September, 2022

<u>Appearance</u> :
*Mr. Prithu Dudhoria, Adv.*
*....for appellant*

*Mr. J.P. Khaitan, Sr. Adv.*
*Mr. Sanjay Bhowmick, Adv.*
*Mr. A.K. Dey, 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 29th May, 2009, passed by the Income Tax Appellate Tribunal, `A' Bench, Kolkata, in I.T.A Nos. 1609 & 1585/Kol/2008 for the assessment year 2004-05.

The appeal was admitted on 16th March, 2010 on the following substantial question of law :-

i) Whether on the facts and circumstances of the case the Tribunal was justified in law in confirming the deletion of Rs.2,27,27,074/- which was done in contravention to the provisions of section 4 and section 145 of the said Act?

ii) Whether on the facts and in the circumstances of the case the Tribunal was justified in law in considering that the provision for NPA is allowable as expenditure where the assessee is not a NBFC?

We have heard Mr. Prithu Dudhoria, learned standing Counsel appearing for the appellant/revenue and Mr. J.P. Khaitan, learned senior Counsel, assisted by Mr. Sanjay Bhowmick, learned Advocate appearing for the respondent/assessee.

It is submitted by the learned senior Counsel appearing for the respondent that the tax effect involved in this appeal is less than the threshold limit fixed by the CBDT and therefore, the revenue cannot pursue the appeal though the learned standing Counsel appearing for the revenue does not have any written instruction.

We find that the challenge is to the confirmation of deletion of Rs.2,27,27,074/- on the ground that it is done in contravention to the provisions of Sub-section(4) of Section 145 of the Act. If the tax is computed on the said amount, it will be less than the threshold limit of Rs.1 Crore and hence the revenue cannot pursue this appeal before this Court.

Accordingly, the appeal is disposed of on the ground of low tax effect and the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

S.Pal/SN.