

OD-31

ITA/33/2001

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

C.I.T., CENTRAL -I, CALCUTTA

-Versus-

M/S. MAKALBARI KANOI TEA ESTATE P.
LTD.

Appearance:
Mr. Smarajit Roychowdhury, Adv.
...for the appellant.

BEFORE:

The Hon'ble JUSTICE T.S. SIVAGNANAM

-And-

The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 14th February, 2022.

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the 'Act' in brevity) is directed against the order dated 5th September, 2000 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata (in short the 'Tribunal') in ITA No.1996(Cal) of 1995 for the assessment year 1990-91.

The appeal was entertained by the order dated 9th April, 2001. The appeal was admitted to decide the following substantial question of law:

"Whether on the facts and in the circumstances of the case the Tribunal is justified in law in holding the

view that the interest payment made on the borrowed funds was for the purpose of the business of the assessee company and thereby deleting the additions made by the assessing officer ?”

We have heard Mr. Smarajit Roychowdhury, learned counsel for the appellant/revenue. The Tribunal had confirmed the order passed by the Commissioner of Income Tax (Appeals) (CIT(A) on the above question raised before us by noting the facts. When the revenue put the order to challenge before the tribunal, the tribunal noted that identical issue was subject-matter of assessment for the assessment years 1986-87 to 1988-89 and for those years the tribunal held in favour of the assessee and set aside the order passed by the assessing officer. Furthermore, the tribunal noted that for the assessment year 1989-90, similar addition was deleted by the CIT(A) and it appears that the said decision had attained finality.

In this appeal, the revenue has not pointed out that against the orders passed by the tribunal/CIT(A) for the assessment years 1986-87, 1987-88, 1988-89 and 1989-90 any appeal has been preferred before this Court. In any event, the rule of consistency needs to be maintained and there is nothing brought on record by the assessing officer that for the assessment year under consideration the facts are different from that of the earlier years. Therefore, we find that there is no error in the order

passed by the tribunal in confirming the order of the CIT(A) deleting the addition. Consequently, we hold that no substantial question of law arises for consideration in this appeal.

Accordingly, the appeal stands dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)