OD-8

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

ITAT/32/2012
IA NO: GA/1/2012 (OLD NO. GA/431/2012)
COMMISSIONER OF INCOME TAX, KOLKATA-I,
Vs
M/s. SHREEBHUMI SYNTHETIC INDIA LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 6th June, 2022.

Appearance:
Mr. Tilak Mitra, Adv.
... for the appellant.

The Court : This appeal has been filed under Section 260A of the Income Tax Act (the Act for brevity) is directed against the order dated 30th August, 2011 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata in I.T.A. No.55/Kol/2011 for the assessment year 2007-08.

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

1. "Whether on the facts and circumstances of the case the Ld. Tribunal erred in law in non considering the valuation report obtained by the Government of West Bengal and confirming the Order of the Ld. CIT(A) to accept the sum of Rs.3,51,06,473/- as against Rs.7,63,63,375/- determined by the Assessing Officer as the full value of consideration for the purpose of the computation of Capital Gain in the hands of the assessee and thus the Order of the Ld. Tribunal is perverse?"

We have heard Mr. Tilak Mitra, learned standing counsel for appellant/revenue. In order to ascertain as to whether any question of law, much less substantial question of law arises for consideration, we have carefully gone through the order passed by the COMMISSIONER OF INCOME TAX [APPEALS]-I, KOLKATA (CITA) dated 22.09.2010 by which the appeal filed by the assessee was allowed.

We have also perused the order passed by the Tribunal which is impugned before us. We find that the Tribunal has dismissed the revenue's appeal after recording the factual finding as follows :

> *"Even if the figure of Rs.7,63,3,000/- determined by the AO is taken as representing the fair market value of the appellant's assets, capital gains cannot be computed in the appellant's hands with reference to the said figure of Rs.7,63,63,000/- which was never received by it as the same has been accounted by M/s. Shreebhumi Steel Private Ltd. in their computation of income for the year ending 31.3.2007 which was placed at page no. 42 of the paper book".*

The above factual position is not being disputed by the revenue in Memorandum of Appeal filed before us. Thus, we find there is no question of law much less substantial question of law arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed.

Consequently, the application for stay stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.pal/GH