O-115

ITA/87/2010

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

COMMISSIONER OF INCOME TAX,
KOLKATA – II, KOLKATA

-Versus-

M/S. PRASAD AND CO. LIMITED

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

Mr. Anurag Bagaria, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE SUPRATIM BHATTACHARYA

Date : 16th September, 2022.

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, is directed against the order dated 9th October, 2009 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (the Tribunal) in ITA No.1011/Kol/2008 for the assessment year 2005-06.

The appeal was admitted on the following substantial question of law:

(i) Whether on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is correct in holding that the sum of

Rs.1,55,95,911/- realised on sale of bonus shares of Jubillant Organosis Ltd. received during the relevant year, was in the nature of short term capital gains and not business income ?"

We have heard Mr. Tilak Mitra, learned standing counsel for the appellant/revenue and Mr. Anurag Bagaria, learned advocate for the respondent/assessee.

From the substantial question of law which has been admitted it is seen that the tax effect involved in this appeal is much less than the threshold limit fixed by the Circular issued by the CBDT. Therefore, the revenue cannot pursue this appeal.

Accordingly, the appeal (ITA/87/2010) stands disposed of on the ground of low tax effect and the substantial question of law is left open.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

S.Das/As.