OD-14

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

ITAT/147/2018
IA No:GA/1/2018 (Old No.:GA/1094/2018)
GA/2/2018 (Old No. GA/1095/2018)
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-2, KOLKATA
VERSUS
M/s. CEMENT INTERNATIONAL LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 10th May, 2022.

Appearance:-
Mr. Soumen Bhattacharjee, Adv.
...for Appellant

The Court : We have heard Mr. Soumen Bhattacharjee, learned standing Counsel appearing for the appellant/revenue. Respondent has been served but has not entered appearance.

There is a delay of 123 days in filing the appeal. We are satisfied with the reasons given in the affidavit filed in support of the condone delay petition and accordingly the delay in filing the appeal is condoned. The application for condonation of delay being GA/1/2018 (Old No:GA/1094/2018) is allowed.

ITAT/147/2018

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 2nd

August, 2017 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata in I.T.A.(SS) A. Nos. 142 to 147/KOL/2016 for the Assessment Years 2008-09 and 2013 –2014;

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

i) Whether on the facts and the circumstance of the case, the Learned Appellate Tribunal, has erred in law while treating the amount of VAT remission as eligible for deduction under Section 80IC of the Income Tax Act, 1961, when essentially, it is of the nature of the duty drawback and cannot be called profit derived from industrial undertaking and cannot be reckoned in computing deduction under Section 80IC of the Income Tax Act, 1961 ?

ii) Whether on the facts and in the circumstances of the case, the Learned Tribunal has erred in law in allowing deduction under Section 80IC of the Income Tax Act, 1961 on VAT remission which is contrary to law laid down in the case of Ritesh Industrial Ltd. reported in (2005) 274 ITR 324 and also in the case of CIT Versus H. M. Steels Ltd. reported in [2015] 62 Taxmann.com 252 (Punjab & Haryana) ?

We have heard Mr. Soumen Bhattacharjee, learned standing Counsel appearing for the appellant/revenue. The learned Standing Counsel has produced before us the copy of the letter written by the Assistant Commissioner of Income Tax, Head Quarter, Central, Kolkata – 11 to the

Commissioner of Income Tax (Judicial) dated 2nd May, 2022 stating that all the appeals filed by the appellant department are below the threshold limit fixed by the C.B.D.T.

For the above reasons, the appeal is dismissed on the ground of low tax effect.

Consequently, the substantial questions of law are left open.

Accordingly, the application being GA/2/2018 (Old No. GA/1095/2018) also stands dismissed.

Affidavit-of-service be kept on record.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)