OD – 1 & 2

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

IA NO.GA/1/2017 (Old No. GA/1481/2017)
In
ITAT/179/2017
PRINCIPAL COMMISSIONER OF INCOME TAX - 3, KOLKATA
VS.
M/S. DUNLOP INIDA LIMITED

IA NO.GA/2/2017 (Old No. GA/1482/2017)
In
ITAT/179/2017
PRINCIPAL COMMISSIONER OF INCOME TAX - 3, KOLKATA
VS.
M/S. DUNLOP INIDA LIMITED

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : February 3, 2022.

[Via Video Conference]

Appearance :
Mr. S.N. Dutta, Adv.
Mr. Arunava Ganguly, Adv.
... for the appellant

Mr. Chayan Gupta, Adv.
Mr. Soumyajyoti Nandy, Adv.
... for the respondent

The Court : We have heard Mr. S.N. Dutta, learned standing counsel duly assisted by Mr. Arunava Ganguly, learned counsel for the appellant/revenue and Mr. Chayan Gupta and Mr. Soumyajyoti Nandy, learned counsel for the respondent/assessee.

On the last occasion it was represented by the learned counsel for the respondent that the respondent company has gone into liquidation and the Official Liquidator of the High Court at Calcutta is in charge of the affairs of the respondent. However, taking note of the submission of the learned standing counsel for the appellant that this appeal will not be pursued by the revenue on account of low tax effect, we exercise discretion and condone the delay in filing the appeal.

Accordingly, the petition for condonation of delay stands allowed.

ITAT No. 179 of 2017

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 ('the Act' for brevity) is directed against the order dated 11th May, 2016 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata (Tribunal) in ITA No. 709/Kol/2013 for the assessment year 2008-09.

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

1. Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal, "B" Bench Kolkata erred in law in upholding the Order of CIT (A) thereby deleting the addition of Rs.44 Crores under Section 69 of Income Tax Act, 1961 in absence of any Accounting entries?
2. Whether on the facts and in the circumstances of the case and in law English Mortgage is applicable in India?

3. Whether on the basis of additional evidence adduced by the respondent before the CIT (Appeal) de-novo investigation can be done?
4. Whether the impugned order is bad, arbitrary, illegal perverse and the same is nothing but a total non-application of mind of the Income Tax Appellate Tribunal, Kolkata and the same is liable to be set aside and/or quashed?

We have heard Mr. S.N. Dutta, learned standing counsel duly assisted by Mr. Arunava Ganguly, learned counsel for the appellant/revenue and Mr. Chayan Gupta and Mr. Soumyajyoti Nandy, learned counsel for the respondent/assessee.

Learned counsel for the appellant on instructions submitted that this appeal will not be pursued by the revenue on account of low tax effect.

In the light of the said submission, the appeal stands dismissed on the ground of low tax effect.

Consequently, the substantial questions of law are left open.

Connected stay application also stands dismissed.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

RS/GH