OD – 3

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

ITAT/111/2019
IA No:GA/2/2019
PRINCIPAL COMMISSIONER OF INCOME TAX-3, KOLKATA
VS.
M/S. BRITANNIA INDUSTRIES LTD.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 25th August, 2022

Appearance :
Mr. Prithu Dudhoria, Adv.
....for appellant

Mr. R.K. Murarka, Sr. Adv.
Ms. Sutapa Roychowdhury, Adv.
Ms. Aratrika Roy, Adv.
...for respondent

The Court : 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 April 25, 2018, passed by the Income Tax Appellate Tribunal, "D" Bench, Kolkata, in I.T.A No.557/Kol/2017 for the assessment year 2009-2010.

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

"Whether on the facts and in the circumstances Learned Tribunal has erred in law as well as on facts in quashing the order passed by the Commissioner of Income Tax, under Section 263 of the Income Tax Act, 1961, setting aside the assessment order passed by the Assessing Officer, under Section 143(3) of the Income Tax Act?"

We have heard Mr. Prithu Dudhoria, learned standing Counsel appearing for the appellant/revenue and Mr. R.K. Murarka, learned senior Counsel appearing for the respondent/assessee.

The order impugned in this appeal passed by the learned Tribunal dismissing the appeal filed by the revenue by placing reliance on an earlier decision in respect of the very same issue arising out of an order passed by the Commissioner under Section 263 of the Act in ITA 775/Kol/15, dated 28th October, 2016. Revenue had filed appeal against the said order before this Court in ITA 216/2017 and by judgment dated 25th August, 2022 this Court had dismissed the revenue's appeal and affirmed the order passed by the learned Tribunal.

In the light of the above, this appeal needs to be dismissed.

Accordingly, the appeal filed by the revenue is dismissed and the substantial question of law is answered against the revenue.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/A.S.