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

ITAT/114//2021
IA No.GA/2/2021
PRINCIPAL COMMISSIONER OF INCOME TAX, ASANSOL
VS.
M/S. MAJOR SINGH TRANSPORT

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE BIVAS PATTANAYAK
Date : 8th July, 2022

Appearance :
Ms. S. Das De, Adv.
...for the appellant.
Mr. Sumit Ghosh, Adv.,
…for the respondent.

The Court : 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 31st July, 2019 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata in ITA No.1102 [Kol] of 2017 for the assessment year 2010-11.

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

i) Whether the decision of the learned Income Tax Appellate Tribunal in view of admission of Department's SLP in case of CIT vs. Valibhai Khanbhai Mankad [2014] 51 taxaman.com 119 [SC], arising out of Gujarat High Court's decision in case of CIT vs. Valibhai Khanbhai Mankad [2912] 28 taxamann.com 119 [Gujarat], on which reliance was placed by Learned Income Tax Appellate Tribunal, Kolkata for allowing relief, a question of law does arise out of Tribunal's order dated 31.7.2019 ?

We have heard Ms. Smita Das De, learned standing Counsel and Mr. Sumit Ghosh, learned Advocate for the respondent/assessee.

The tribunal by the impugned order dismissed the appeal filed by the revenue following the decision of the High Court of Gujarat in CIT vs. Valibhai Khanbhai Mankad [2013] 261 CTR 538 [Gujarat]. The learned standing counsel for the appellant fairly submits that as against the said decision the revenue had filed the appeal before the Hon'ble Supreme Court and leave was granted on 22nd August, 2016. However, the appeal in Civil Appeal No.9812 of 2014 was dismissed by the judgment dated 17th September, 2018.

In the light of the said legal position, the order passed by the tribunal does not call for any interference.

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

Consequently, the stay application being GA/2/2021 stands closed.

(T.S. SIVAGNANAM, J.)

(BIVAS PATTANAYAK, J.)

Pkd/GH.