OD-16

ITA/125/2011

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

COMMISSIONER OF INCOME TAX,
KOLKATA-XII, KOLKATA

-Versus-

M/S. BANWARI LALL PASARI

Appearance:
Mr. Prithu Dudheria, Adv.
...for the appellant.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 14th November, 2022.

The Court: This appeal filed by the revenue under Section 260A of the Income Tax Act, is directed against the order dated 16th July, 2010 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the Tribunal) in ITA No.523/Kol/2010 for the assessment year 2006-07.

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

(i) Whether on the facts and in the circumstances of the case the Tribunal was justified in law to quash and/or set aside the Order of the CIT(A) holding inter alia that the issues as

per the show cause notice stood fully explained, on rental income as income from business, under charging interest from four parties, non verification of a long standing unsecured creditor and suppression of income from a Delhi property and its purported finding in this behalf have been arrived at by ignoring the relevant materials and/or by taking into consideration irrelevant and/or extraneous materials and/or are otherwise arbitrary, unreasonable and perverse ?

We have heard Mr. Prithu Dudheria, learned standing counsel for the appellant/revenue. Though the respondent has been served, none appears for the respondent.

The short issue which falls for consideration in the instant case is whether the Commissioner of Income Tax-XII, Kolkata (CIT) was justified in invoking his power under Section 263 of the act.

On perusal of the impugned order passed by the learned Tribunal we find that the learned Tribunal has re-examined the factual position and held that assumption of jurisdiction under Section 263 of the Act by the CIT was not sustainable. The learned Tribunal has pointed out that pursuant to the show cause notice issued by the CIT dated 5th October, 2009, the assessee had submitted an elaborate explanation and the explanation was examined for its correctness and the learned tribunal has given a seal of approval.

Thus, we find there is no question of law much less substantial question of law arising for consideration in this appeal.

Accordingly, the appeal (ITA/125/2019) fails and is dismissed.

Consequently, the connected application for stay (GA/982/2011) also stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s./TR