OD-8

ITA/13/2020

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

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-1, KOLKATA

-Versus-

M/S. RUNGTA MINES LTD.

Appearance:
Mr. Tilak Mitra, Adv.
...for the appellant.

Mr. Subash Agarwal, Adv.
...for the respondent.

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

Date : 8th April, 2022.

The Court : This appeal filed by the revenue filed under Section 260A of the Income Tax Act, 1961 (the 'Act' in brevity) is directed against the order dated 5th October, 2018 passed by the Income Tax Appellate Tribunal, "D" Bench, Kolkata (in short the Tribunal) in ITA No.1531/Kol/2017 for the assessment year 2014-15.

The appeal was admitted on 17th February, 2020 on following substantial question of law:

i) Whether on the facts and in the circumstances of the case the penalty paid by the assessee under

Indian Railways Act, 1989 for excess loading of cargo in wagons in an allowable expenditure under Section 37 of the Income Tax Act, 1961 ?

We have heard Mr. Tilak Mitra, learned standing counsel for the appellant/revenue and Mr. Subash Agarwal, learned advocate appearing for the respondent/assessee.

Identical substantial question of law was decided by us against the revenue in the case of Principal Commissioner of Income Tax, Central-1, Kolkata vs. M/s. Feegrade & Company Pvt. Ltd. in ITAT/25/2018 on 4th January, 2022. In the said decision, we took note of the judgment of the Hon'ble Supreme Court in Prakash Cotton Mills Pvt. Ltd. reported in 201 ITR 684, wherein it was held that any payment which is compensatory in nature can be allowed under Explanation to Section 37(1) of the Act. Further, in the instant case, the tribunal has also taken note of a decision of the Mumbai Tribunal, in the case of Taurian Iron & Steel Co. Pvt. Ltd. vs. ACIT, passed in ITA No.847 & 1613/M/2010 wherein it was held punitive charges paid by the assessee to railways for overloading of wagon is compensatory in nature and the same cannot be disallowed by invoking the provisions of explanation to Section 37(1) of the Act. In the said decision, the tribunal has taken note of the decision in Prakash Cotton Mills Pvt. Ltd.

Thus, we find that the substantial question of law framed for consideration has to be answered against the revenue.

Accordingly, the appeal (ITA/13/2020) is dismissed and the substantial question of law is answered against the revenue.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

As.