OD-37&38

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

ITAT/240/2018
IA NO: GA/2/2018 (Old No.GA/2137/2018)
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-5, KOLKATA
VERSUS
M/S. LORDS DISTILLERY LTD.

ITAT/240/2018
IA NO: GA/1/2018 (Old No.GA/2135/2018)
PRINCIPAL COMMISSIONER OF INCOME TAX, KOLKATA-5, KOLKATA
VERSUS
M/S. LORDS DISTILLERY LTD.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 3rd February, 2022

Appearance :-
Mr. Debasish Chowdhury, Adv.
... For Appellant

Mr. C.S. Agarwal, Sr. Adv.
Ms. Nilanjana Banerjee Pal, Adv.
... For 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 30th August, 2017 passed by the Income Tax Appellate Tribunal, Delhi, `D' Bench, in I.T.A No.4492/DEL/2012 for the assessment year 2006-07.

We have heard Mr. Debasish Chowdhury, learned Standing Counsel appearing for the appellant/revenue and Mr. C.S. Agarwal, learned Senior Counsel, assisted by Ms. Nilanjana Banerjee Pal, learned Counsel, appearing for the respondent/assessee.

Learned Senior Counsel appearing for the respondent/assessee submitted that the order impugned in this appeal has been passed by the Delhi Tribunal for which this Court does not have territorial jurisdiction and therefore this appeal is not maintainable before this Court. In support of his contention, the learned Counsel placed reliance on the decision of this Court in Commissioner of Income Tax vs. A.B.C. India Ltd., reported in (2003) 126 Taxman 18 (Calcutta) and the decision in the case of Principal Commissioner of Income-tax, Pune Vs. Sungard Solutions (I) (P.) Ltd., reported in (2019) 105 taxmann.com 67 (Bombay). It has been held in A.B.C. India Ltd. (supra) that it is neither proper nor justified that the High Court of one State should take control in any matter over the Tribunal of a different State and the Tribunals of different States are bound to follow, first the Supreme Court and then their jurisdictional High Court and only thereafter the other High Courts. In Sungard Solutions (I) (P.) Ltd. (supra) it has been held that the seat of the Assessing Officer would not decide jurisdiction of the High Court at the time of appeal and where the order was passed by the Bengaluru Tribunal, it is the High Court of Karnataka which would have jurisdiction. The above decisions would squarely apply to the case at hand. We also note that there is a delay of 181 days in filing the appeal. Though the prayer has been made on behalf of the revenue for condonation of the delay, we cannot exercise jurisdiction on account of the fact that the order impugned was passed by the Delhi Tribunal for which this Court has no territorial jurisdiction.

Mr. Debasish Chowdhury, learned Counsel for the appellant/revenue, prayed for grant of liberty to enable the revenue to present the appeal before the appropriate High Court.

In our considered view, we would not be justified in granting such liberty since we do not have jurisdiction to entertain this appeal. Needless to state, it is always open to the revenue to proceed in accordance with law.

In view of the above, the appeal stands dismissed for want of jurisdiction. Consequently, the connected applications stand dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/pa.
AR(CR)