O-118

ITA/131/2010

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

COMMISSIONER OF INCOME TAX,
KOLKATA, KOLKATA-IV

-Versus-

M/S. PHILIPS CARBON BLACK LTD.

Appearance :
Ms. Smita Das De, Adv.
. . . for the appellant.

Mr. J. P. Khaitan, Sr. Adv.
Mr. Agnibesh Sengupta, Adv.
Mr. A. K. Dey, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE SUPRATIM BHATTACHARYA

Date : 16th September, 2022.

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, is directed against the order dated 22nd January, 2010 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the Tribunal) in ITA No.421/Kol/2009 for the assessment year 2002-03.

The appeal was admitted on the following substantial question of law:

> (i) *Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal is justified in law in deleting the addition of Rs.2,40,00,000/- in absence of any evidence of rendering of actual service by R.P.G. Enterprise Ltd. ?"*

We have heard Ms. Smita Das De, learned standing counsel for the appellant/revenue and Mr. J.P. Khaitan, learned senior counsel assisted by Mr. Agnibesh Sengupta and Mr. A. K. Dey, learned advocates for the respondent/assessee.

From the substantial question of law which has been admitted it is seen that the tax effect involved in this appeal is much less than the threshold limit fixed by the Circular issued by the CBDT. Therefore, the revenue cannot pursue this appeal.

Accordingly, the appeal (ITA/131/2010) stands disposed of on the ground of low tax effect and the substantial question of law is left open.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

S.Das/As.