OD-5

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

ITAT/144/2011
IA No:GA/1/2011 (Old No.:GA/1561/2011)
GA/2/2011 (Old No.:GA/1562/2011)

COMMISSIONER OF INCOME TAX, KOLKATA II, KOLKATA
VERSUS
NATIONAL INSURANCE COMPANY LTD.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 4TH MAY, 2022.

Appearance:-
Mr. Prithu Dudheria, Adv.
…for Appellant
Mr. Debasish Mitra, Adv.
Mr. Siddhartha Das, Adv.
… for respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act, for brevity) challenging the correctness of the order dated 19th December, 2003 passed by the Income Tax Appellate Tribunal, `B' Bench, Kolkata in ITA Nos.11(Cal)/1997 and 18(Cal)/1999 for the assessment years 1992-93 and 1995-96.

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

"(a) Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in holding that the interest from Government Securities, Bonds, Debentures etc. are not liable to interest Tax without appreciating Section 2(7) of Interest Act, 1974 ?

(b) Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in not holding that the interest accrues for the entire year not broken year ?"

We have heard Mr. Prithu Dudheria, learned standing counsel appearing for the appellant and Mr. Debasish Mitra and Mr. Siddhartha Das, learned Counsel for the respondent/assessee. We find that the appeal was barred by limitation and an application under Section 5 of the Limitation Act was filed seeking condonation of delay. The Hon'ble Division Bench by order dated 24th June, 2011 directed the appellant/department to pay a cost of Rs.10,000/- to the learned advocate for the respondent/assessee within a fortnight from the date of the said order. This direction was admittedly not complied with and when the matter was heard by the Hon'ble Division Bench on 25th July, 2011 the Court noted the said position and also took note of an oral prayer made on behalf of the appellant/revenue to extend the time for payment of the cost. This request was declined. Till date no application for extension of time has been filed by the revenue. Therefore, we have no other option except to dismiss the application under Section 5 of the Limitation Act and consequently reject the appeal.

In the result, the GA/1/2011 (Old No. GA/1561/2011) stands dismissed. Consequently, the appeal stands rejected.

However, the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)