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

ITAT/154/2011
IA NO. GA/1/2011 (OLD NO. GA/1658/2011)
GA/2/2011 (OLD NO. GA/1659/2011)
COMMISSIONER OF INCOME TAX, KOLKATA - I, KOLKATA
VS.
M/s. CHLORIDE INTERNATIONAL LTD.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 11th May, 2022.

Appearance :
Ms. Smita Das De, Adv.
....for appellant
Ms. Nilanjana Banerjee Pal, Adv.
...for respondent

The Court : We have heard Ms. Smita Das Dey, learned Standing Counsel appearing for the appellant/revenue and Ms. Nilanjana Banerjee Pal, learned Advocate appearing for the respondent/assessee.

There is a delay in filing the appeal and this application being GA/1/2011 (OLD NO. GA/1658/2011) has been filed for condonation of delay. There was a condition imposed by the Division Bench of this Court on 17th August, 2011 that the appellant shall pay a cost of Rs.10,000/- to the Counsel for the respondent. This condition has not been complied with.

Furthermore, the order is a self-speaking order. In any event, we have found the tax effect in the appeal is below the threshold limit fixed by the CBDT and therefore, we exercise discretion and condone the delay in filing the appeal. The petition for condonation of delay stands allowed.

ITAT/154/2011

This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 is directed against the order dated 31st October 2005 in ITA Nos. 436 & 474/Kol/2002 for the assessment year 1998-99.

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 Learned Tribunal was justified in deleting the addition of Rs.1,65,85,537/- being the difference between the book value of the assets of Rs.96,14,463/- transferred on sale of the export division for a sum of Rs.2,62,00,000/- both as profits and gains of business and capital gains.

ii) Whether, on the facts and in the circumstances of the case, the Learned Tribunal was notified in deleting the addition of Rs.5,00,000/- being the difference between the written down value and the book value of the assets transferred on sale of the export division.

We have heard Ms. Smita Das Dey, learned Standing Counsel appearing for the appellant/revenue and Ms. Nilanjana Banerjee Pal, learned Advocate appearing for the respondent/assessee.

As could be seen from the calculation of the tax done by the Assessing Officer in his order dated 23rd March, 2001 the tax payable by the assessee is Rs.44,99,545/-. If that be the case, the revenue cannot prosecute the appeal on the ground of low tax effect. Accordingly, the appeal stands dismissed on the ground of low tax effect. Consequently, substantial questions of law are left open.

With the dismissal of the appeal, the stay application being No. GA/2/2011 (OLD NO. GA/1659/2011) stands dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)