OD-7

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

ITAT/165/2011
IA No:GA/1/2011 (Old No.:GA/1712/2011)
GA/2/2011 (OLD No.GA/1713/2011)
COMMISSIONER OF INCOME TAX, KOLKATA – I, KOLKATA
VERSUS
M/S. ISPAT INDUSTRIES LIMITED

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
Ms. Swapna Das, 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) is directed against the order dated February 21, 2006, passed by the Income Tax Appellate Tribunal, "D" Bench, Kolkata in ITA No.1479/Kol/2005 for the assessment years 1997-98.

The revenue has suggested the following substantial question 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 upholding the order of the CIT(A) in deleting the addition of Rs.1.45 crores made to book profit on account of provision for bad and doubtful debts by holding that adjustment to book profit is limited to explanation (a) to (f) below second proviso to sec.115JA(2) of the Income Tax Act and that provision for bad and doubtful debts is not included in explanation (a) to (f) ?

(b) Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in upholding the order of CIT(A) in deleting the addition of Rs.80 Lacs made to book profit on account of provision for premium on redemption of NCD by holding that such provision is not contingent/unascertained liability, where such liability is a contingent nature to be made on future date?

(c) Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in holding that the issue like provision for bad debt and provision for premium on redemption of NCD cannot be rectified under section 154 where glaring and obvious mistake of law is also rectifiable under section 154 as held by Hon'ble Supreme Court in the case of M.K. Venkatachalam Vs. Bombay Dying and Mfg. Co. Ltd. (34 ITR 143)?

(d) Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in upholding the order of CIT (A) in deleting the addition of Rs.5.84 crores made to book profit on account of change in method of depreciation by holding that change of method is bonafide?

(e) Whether on the facts and in the circumstances of the case the Income Tax, Appellate Tribunal erred in law in upholding the order of CIT (A) in holding that no interest under section 234B and 234C is chargeable on book profit under section 115JA, without considering the provision of Section 115JA(4) of the Income Tax Act, 1961 ?

We have heard Mr. Prithu Dudheria, learned standing counsel appearing for the appellant and Ms. Swapna Das, learned Advocate with Mr. Siddhartha Das, Advocate for the respondent/assessee.

There is a delay of 1794 days in filing the appeal. The delay has been opposed and an affidavit-in-opposition has been filed. When the matter came up before Hon'ble Division Bench on 12th September, 2011, there is a direction to the appellant/department to pay Rs.10,000/- to the learned advocate for the respondent within one week after the Court reopens after vacation. Admittedly, this direction has not been complied with. Further we note that the order is a self-speaking order, that upon failure to comply with the condition within the time the appeal would stand dismissed. As the condition has not been complied with by the revenue and coupled with the fact that we find that no sufficient cause has been shown by the appellant/department for the inordinate delay of 1794 days and noting that the delay remains unexplained, we dismiss the application being GA/1/2011 (Old No. GA/1712/2011).

Consequently, the appeal stands rejected.

However, substantial questions of law are left open.

The stay application being GA/2/2011 (Old No. GA/1713/2011) stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)