OD-21

ITAT/74/2015
IA No.GA/1/2015 (Old No.GA/1701/2015)
IA No.GA/2/2015 (Old No.GA/1702/2015)

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

COMMISSIONER OF INCOME TAX,
KOLKATA-3, KOLKATA

-Versus-

M/S. SNOWTEX UDYOG LIMITED

Appearance:
Mr. Soumen Bhattacharyya, Adv.
...for the appellant.

Mr. J.P. Khaitan, Sr. Adv.
Mr. Saumya Kejriwal, Adv.
Mr. G. S. Gupta, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 6th June, 2022.

The Court : We have heard Mr. Soumen Bhattacharyya, learned standing counsel appearing for the appellant/revenue and Mr. J. P. Khaitan, learned Senior counsel assisted by Mr. Saumya Kejriwal and Mr. G. S. Gupta, learned Advocates for the respondent/assessee.

There is a delay of 174 days in filing the appeal. We have perused the affidavit filed in support of the application for condonation of delay and we found that the explanation given are satisfactory and reasonable. Therefore, we exercise discretion and condone the delay in filing the appeal. Accordingly, the application for condonation of delay (IA No.GA/1701/2015) is allowed and the delay in filing the appeal is condoned.

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 26th June, 2014 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata in ITA No.266/Kol/2011 for the assessment year 2004-05.

The revenue has raised for the following substantial question of law for consideration:

i) Whether on the facts and circumstances of the case the Learned Tribunal was justified in law in holding that the nature and source of the credit was satisfactorily explained ignoring the full facts of the case ?

ii) Whether on the facts and circumstances of the case the order of the Learned Tribunal is perverse in law as well as in facts by ignoring the facts of the case ?"

Learned standing counsel for the appellant, on instruction, submits that the appeal cannot be pursued by the revenue on the ground that the tax effect is below the threshold limit filed by the circular issued by the CBDT. In this regard, the learned counsel has referred to the order passed by the Commissioner of Income Tax, Central-I, Kolkata dated 2nd November, 2010 wherein it has been indicated that the tax demanded is Rs.44,60,239/-. If that be the case, the revenue cannot pursue this appeal. Hence. The appeal is dismissed on the ground of low tax effect and the substantial questions of law are left open.

Consequently, the connected application for stay (IA No.GA/1702/2015) also stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Das /As