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

ITA/50/2014
COMMISSIONER OF INCOME TAX, KOL-XVIII, KOLKATA
VS.
M/S. RAKSHIT JEWELLERY PALACE

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : SEPTEMBER 22, 2022.

Appearance:
Mr. Soumen Bhattacharjee, Adv.
...for appellant
None appears
...for respondent

The Court :- As per office report the original case file is not traceable and, therefore, the learned standing Counsel has provided a photocopy of the case file which shall be treated as original until the original case file is traced out.

This appeal has been filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated January 17, 2014 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata in ITA No. 2665/Kol/2013 for the assessment year 2009-2010. The appeal was admitted on the following substantial questions of law :-

1. "Whether in the facts and circumstances of the instant case the learned Tribunal was correct in law in reducing the addition of Rs.40,81,656/- made under section 69B of the Income Tax Act, 1961 to Rs.1,62,417/- being the value of unexplained stock of gold ornaments found during survey at the business premises of the assessee without appreciating the evidences on record ?

2. Whether in the facts and circumstances of the instant case the learned Tribunal was correct in law in granting the above relief without appreciating that :-

    (i) Partner Shri Sourav Rakshit in his sworn statement during survey stated that no stock pertaining to anyone else was kept at the business premises of the assessee;

    (ii) Evidence on record do not establish that any part of stock was pertaining to third parties ;

    and, therefore the finding of the Learned Tribunal was perverse to that extent?"

We have heard Mr. Soumen Bhattacharjee, learned standing Counsel for the appellant. None appears for the respondent.

On perusal of the order passed by the COMMISSIONER OF INCOME TAX (APPEALS) –XXXIII, KOLKATA [CIT(A)] that the tax demanded is Rs.33,57,363/-. If that be so the tax effect is below the threshold limit prescribed in the circular issued by the CBDT and, therefore, the revenue cannot pursue this appeal.

Accordingly, the appeal stands disposed of on the ground of low tax effect. The substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

Pkd/GH