OD-3

AWT/5/2017
IA No.GA/1/2017 (Old No.GA/3663/2017)
IA No.GA/2/2017 (Old No.GA/3664/2017)

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

PRINCIPAL COMMISSIONER OF
WEALTH TAX-12, KOLKATA

-Versus-

SHRI SANDIP SWAMANTA

Appearance:
Ms. Smita Das De, Adv.
...for the appellant.

Mr. R. N. Bandyopadhyay, Adv.
...for the respondent.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 20th June, 2022.

Re.: IA No.GA/1/2017 (Old No.GA/3663/2017)

The Court : We have heard Ms. Smita Das De, learned standing counsel for the appellant/revenue and Mr. R. N. Bandyopadhyay, learned advocate for the respondent/assessee.

There is a delay of 566 days in filing the appeal. Though we are not fully satisfied with the reasons given for the delay of 566 days in filing the appeal, yet since the matter arises under the Wealth Tax Act and we are to consider whether any substantial question of law arises for consideration in this appeal filed under Section 27A of the Wealth Tax Act, 1957, we exercise discretion and condone the delay in filing the appeal.

Accordingly, application for condonation for delay IA No.GA/1/2017 (Old No.GA/3663/2017) is allowed.

<u>Re.: AWT/5/2017</u>

This appeal filed by the revenue under Section 27A of the Wealth Tax Act, 1957 (the Act, for brevity) is directed against the order dated 7th July, 2015 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata in WTA No.48/Kol/2014 for the assessment year 2009-10.

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 order of the Ld. Tribunal has erred in law as well as on fact in confirming the order of CWT (Appeals) holding that Motor cars held by the assessee was for personal use and for business and exempted from Wealth Tax under Section 2(ea) of the Wealth Tax Act, 1957?*

ii) *Whether on the facts and in the circumstances of the case the order of the Ld. Tribunal has erred in law as well as on fact in confirming the order of CWT (Appeals) holding the excess cash exceeding Rs.50,000/- exempted from Wealth Tax Under Section 2(ea) of the Wealth Tax Act, 1957?*

We have heard Ms. Smita Das De, learned standing counsel for the appellant/revenue and Mr. R. N. Bandyopadhyay, learned advocate for the respondent/assessee.

The Assessing Officer by order dated 31st January, 2013 passed under Section 17 of the Act held that the assessee had no documentary evidence in support of his claim and the exemption claimed by the assessee was wrong and cannot be granted under the provisions of the Act.

Aggrieved by the same, the assessee preferred an appeal before the Commissioner of Wealth Tax (Appeals) XX, Kolkata (CWTA). The said appeal was allowed by order dated 11th June, 2014.

Aggrieved by the same, the revenue filed appeal before the Tribunal which was dismissed and dissatisfied with the same the revenue is before us by way of this appeal.

On perusal of the order passed by the CWT(A), we find that the entire factual position has been examined by the appellate authority and the documentary evidence placed by the assessee before the Appellate Authority was taken note of and the argument made on behalf of the assessee was accepted and the CWT(A) held that all the assets were belonging to the business of the assessee, being business assets and the same were exempted from tax under the provisions of the Act. Before the Tribunal the revenue could not specifically point out as to which specific evidence has not been furnished by the assessee. This has been noted in paragraph 2 of the impugned order. If such be the case, we cannot be called upon to act as a Third Appellate Authority/Court and reexamine the facts.

Thus, we find that there is no question of law, much less substantial question of law arising for consideration in this appeal.

Accordingly, the appeal fails and dismissed.

Consequently, the application for stay being IA No. GA/2/2017 (Old No.GA/3664/2017) stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

A/s/S.Das/GH/S.Pal