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

AWT/6/2017
IA NO: GA/1/2017 (OLD NO. GA/3713/2017)
GA/2/2017 (OLD NO. GA/3714/2017)
PRINCIPAL COMMISSIONER OF WEALTH TAX, KOL – 12, KOLKATA
Vs
SHRI TAPAS KUMAR ROY

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 20th June, 2022.

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

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

Re.: IA No.GA/1/2017 (Old No.GA/3713/2017)

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 567 days in filing the appeal. Though we are not fully satisfied with the reasons given for the delay of 567 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/3713/2017) is allowed.

<u>*Re.: AWT 6 of 2017*</u>

This appeal by the revenue filed under Section 27A of the Wealth Tax Act, 1957 (the Act, for brevity) is directed against the order dated 9th July, 2015 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata in W.T.A. No. 29/Kol/2013 for the assessment year 2002-03.

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 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 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 December, 2010 denied the exemption claimed by the assessee on the ground that in terms of the provisions of Section 2(ea) of the Act the moveable and immovable assets should have been included in the net wealth and chargeable to tax except one residential house at Rabindranagar, Midnapore. Therefore, the Assessing

Officer held that the total value of the assets amounting to Rs.36,57,700/- of the assessee was liable to be assessed to wealth tax.

Aggrieved by the same, the assessee preferred appeal before the Commissioner of Income Tax (Appeals) XX, Kolkata. Before the Appellate Authority the assessee placed several documents and also explained the factual position. The CIT(A) by order dated 11th March, 2014 allowed the appeal, holding that the properties were business assets.

Aggrieved by the same, the revenue preferred appeal before the Tribunal. The Tribunal, on its part, re-appreciated the factual position which was brought on record and affirmed the view taken by CIT(A) that the value of moveable and immovable property and cash in hand belonged to the business concern and not an individual property of the assessee. Further, the Tribunal has held that no cogent material or evidence was brought on record by the revenue for interfering with the order passed by the CIT(A).

In the light of the above conclusion arrived at by the Tribunal, we find that no questions of law, much less substantial questions 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/3714/2017) stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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