OD- 7

ITAT/355/2017
IA NO.GA/1/2017 (Old No.GA/3562/2017)
IA No.GA/2/2017 (Old No.GA/3563/2017)

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

PRINCIPAL COMMISSIONER OF INCOME TAX – I, KOLKATA
-Versus-
THE JUTE CORPORATION OF INDIA LIMITED

Appearance:
Mr. Prithu Dudheria, Adv.
...for the appellant.

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

Date : 8th June, 2022.

Re : IA No.GA/1/2017

The Court : Heard the learned standing counsel for the appellant. There is a delay of 336 days in filing the appeal. Despite several adjournments, the Ministry has not been able to serve the notice on the respondent/assessee and no affidavit has been filed. Therefore, we are not inclined to adjourn the matter any further. At this juncture, the learned standing counsel for the appellant expresses desire to make submission on the merits of the matter and requested the court to hear the main appeal. Only for such purposes, we exercise the discretion and condone the delay in filing the appeal.

Accordingly, the application for condonation of delay (IA No.GA/1/2017) stands allowed.

Re : ITAT/355/2017

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 25th May, 2016 , 2014 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata in ITA No.1348/Kol/2013 for the assessment year 2008-09.

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

"(a) Whether on the facts and in the circumstances of the case, the Learned Tribunal erred in law in upholding the decision of the CIT(A) XXIV Kolkata who allowed a sum of Rs.1,26,04,522/- on account of contingent and unascertained liability out of the total amount of Rs 1,45,00,000/- disallowed by the assessing officer?"

We have heard Mr. Prithu Dudheria, learned standing counsel appearing for the appellant/revenue.

On reading the above question, we find that the question is fully factual and it cannot be termed as substantial question of law. That apart, on going through the order passed by the tribunal which affirmed by the Commissioner of Income Tax (Appeals), we find that the appeal filed by the assessee before the Commissioner was allowed based on the actual payment made by the assessee towards the settlement of claims. Therefore, the tribunal verified the factual position and affirmed the order passed by the Commissioner and dismissed the appeal filed by the revenue. Thus, we find that no question of law much less the substantial question of law is arising for consideration in this appeal.

Accordingly, the appeal fails and is hereby dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/S.Das