OD – 25

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

IA NO.GA/2/2017
(OLD NO. GA/3609/2017)
In
ITAT/359/2017

PRINCIPAL COMMISSIONER OF INCOME TAX - 2, KOLKATA
VS.
UNIVERSAL INDUSTRIAL FUND LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
A N D
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date: January 3, 2022.

[Via video conference]

Appearance :
Mr. Tilak Mitra, Adv.
Mr. A. Bhowmik, Adv.
... for the appellant/revenue

Mr. Sanjay Bbhowmick, Adv.
Mr. A.K.Dey, Adv.
... for the respondent

The Court : This appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 (the Act, in brevity) is directed against the order dated 24th March, 2017, passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (Tribunal) in ITA No. 297/Kol/2014 for the assessment year 2010-11.

The Revenue has raised the following substantial questions of law for our consideration:

1. Whether on the facts and in the circumstances of the case, the Tribunal erred in law in deleting the disallowance made by the assessing officer on account of bad debt written off without considering that the case of the assessee is not covered under the provisions of section 36(1) (vii) read with section 36 (2) (i) of the Income Tax Act and its purported findings in this regard are arbitrary, unreasonable and perverse?
2. Whether on the facts and in the circumstances of the case, the Tribunal erred in law in deleting the disallowance made under section 14A of the Income Tax Act read with Rule 8D(2)(ii) of the Income Tax Rules since the provisions of Rule 8D (2) (ii) applies only to expenses relating to tax free income and not interest income of the assessee which is assessed to tax and its purported findings in this regard are arbitrary, unreasonable and perverse?

We have heard Mr. Tilak Mitra, learned standing Counsel for the appellant/Revenue and Mr. A. K. Dey, learned Counsel for the respondent/assessee.

It is submitted by the learned Counsel for the respondent assessee that the assessee has availed the benefit of the *Vivad Se Vishwas Scheme* and Form No. 4 dated 25th January, 2021 has been issued.

In the light of the same, the appeal stands disposed of on the ground that the assessee has availed the benefit of *Vivad Se Vishwas Scheme*.

Consequently, the substantial questions of law are left open.

(T. S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

RS/GH