

OD-13

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

ITAT/143/2022
IA NO: GA/1/2022, GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX, 2,, KOLKATA
VS.
ISG TRADERS LIMITED

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : SEPTEMBER 12, 2022.

Appearance:
Mr. Prithu Dudhoria, Adv.
... for appellant
Mr. Moloy Dhar, Adv.
...for respondent

The Court : Heard Mr. Prithu Dudhoria, learned standing Counsel for the appellant and Mr. Moloy Dhar, Advocate learned Advocate for the respondent.

There is a delay of 559 days in filing the appeal. Though the explanation offered is not fully satisfactory, since we have suggested that the appeal itself can be heard and submissions were heard on the merits of the matter we exercise discretion and condone the delay in filing the appeal.

The appeal filed by the revenue under Section 260A of the Income Tax Act (the Act) is directed against the order dated 5th June, 2020 passed by the Learned Income Tax Appellate Tribunal "B" Bench Kolkata in ITA No. 1610/Kol/2019 for the assessment year 2012-13.

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

“(a) Whether on the facts and circumstance of the case as well as in law the Income Tax Appellate Tribunal is justified in deleting the addition made u/s. 14A of the Income Tax Act, 1961 read with Rule 8D of the Income Tax Rules 1962?”

Heard Mr. Prithu Dudhoria, learned standing Counsel for the appellant and Mr. Moloy Dhar, Advocate learned Advocate for the respondent.

The learned Tribunal in our considered view rightly took note of the factual position which could not be disputed by the revenue and also the decision of the Hon’ble Supreme Court and the other High Courts holding that disallowance under Section 14A of the Act is to be restricted to the amount of exempt income only and not to a higher figure. The following finding rendered by the learned Tribunal is as hereinunder:

“The AO has computed the disallowance u/s. 14A read with Rule 8D at a sum of Rs.5,80,23,623/- taking the entire investments held by the assessee as on 31.03.2011 and 31.03.2012, resulting in enhancement of the disallowance by Rs.5,27,95,595/-. On appeal the Ld. CIT(A) has given relief to the assessee by holding that the amount of disallowance u/s. 14A should be restricted to the amount of exempt income only and not a higher figure. Against this decision of the Ld. CIT(A) the revenue has preferred this appeal. We note that the decision impugned in the factual back-drop could not be disputed by the Ld. DR. This issue we note is no longer res integra and as rightly noted by the Ld. CIT (A), the Hon’ble Supreme Court has upheld similar view of the Hon’ble High Court of Punjab & Haryana in PCIT Vs. State Bank of Patiala (supra) and the Ld. CIT(A) has relied on the decision of the coordinate bench of this Tribunal in the case of West Bengal Infrastructure Development (supra) to come to the decision that disallowance

u/s.14A of the Act to be restricted to the amount of exempt income only and not at a higher figure.”

In the light of the above undisputed factual position we are of the view that no questions of law, much less substantial questions of law arise for consideration in this appeal.

Accordingly, the appeal fails and dismissed.

Affidavit-of-service be kept on record.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)