OD – 7

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

ITAT/154/2022
IA NO. GA/1/2022, GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX, ASANSOL
VS.
M/S. EASTERN COALFIELDS LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : SEPTEMBER 27, 2022.

Appearance:
Mr. Prithu Dhudheria, Adv.
... for appellant
Mr. Rajeev Kumar Agarwal, Adv.
...for respondent.

GA/1/2022

The Court :- We have heard Mr. Prithu Dhudheria, learned standing Counsel appearing for the appellant and Mr. Rajeev Kumar Agarwal, learned Counsel for the respondent.

There is a delay of 482 days in filing the appeal. On perusal of the application we are satisfied that sufficient cause has been shown for not being able to prefer the appeal within the period of limitation. The delay in filing the appeal is condoned. Accordingly, the application for condonation of delay is allowed.

ITAT/154/2022

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated October 22, 2020 passed by the Income Tax Appellate Tribunal 'B' Bench Kolkata (Tribunal) in ITA No. 1358/Kol/2018 for the assessment year 2005-2006. The revenue has raised the following substantial questions of law for consideration :

[a] Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal erred in affirming the decision of the Learned CIT[A], Asansol deleting the addition made on account of

disallowance of " Provision for Wages and Salary etc. on account of NCWA VII" amounting to Rs.5,25,00,00,000/- in absence of verifiable supporting evidences ?

[b] Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal erred in law in affirming the decision of the learned CIT[A], Asansol deleting the addition made on account of disallowance of "Current Liabilities" amounting to Rs.1,22,06,16,000/- relying on the presumption that the assessee being PSU, cannot create a fictitious liability in the books ?

We have heard Mr. Prithu Dhudheria, learned standing Counsel appearing for the appellant and Mr. Rajeev Kumar Agarwal, learned Counsel for the respondent.

So far as substantial question of law [a] is concerned, the same has been decided against the revenue in the assessee's own case by this Court in ITAT/230/2017 dated 14.12.2021 and in the same judgment substantial question of law [b] was also decided against the revenue.

So far as the substantial question of law no.[b] is concerned, the same issue arose in the assessee's own case for the assessment year 2006-2007 in ITAT/96/2018 and by judgment dated 04.01.2022 the appeal filed by the revenue was dismissed.

Thus, following the above decisions, the appeal stands dismissed and the substantial questions of law are answered against the revenue.

Consequently, the connected application for stay stands closed.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

Pkd/SPal