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

ITAT/183/2022
IA NO. GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA
Vs
M/S. UNIVERSAL CABLES LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : NOVEMBER 03, 2022.

Appearance:
Mr. Prithu Dudhoria, Adv.
...for appellant
Mr. J.P. Khaitan, Sr. Adv.
Mr. Sanjay Bhowmick, Adv.
Ms. Swapna Das, Adv.
Mr. Siddhertha Das, Adv.
...for respondent

The Court :- This appeal filed by the assessee under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 30th November, 2022 passed by the Income Tax Appellate Tribunal "A" Bench, Kolkata in ITAT No. 1461/Kol/2019 for the assessment years 2014-15. The assessee has raised the following substantial questions of law for consideration :-

i) Whether the assessee was entitled to get benefit of additional depreciation @10% amounting to Rs.1,35,64,743/- on the assets purchased and put to use on latter half of the Financial Year 2012-13 or not ?

ii) Whether the provisions of sec. 14A r.w. Rules, 1962 could be invoked to determine the expenses related to the exempt income or not ?

We have heard Mr. Prithu Dudhoria, learned Counsel for the appellant and Mr. J.P. Khaitan, learned Senior Advocate duly assisted by Mr. Sanjay Bhowmick, learned counsel for the for the respondent.

On the second substantial questions of law the Tribunal has dismissed the appeal filed by the revenue on the ground that the Commissioner of Income Tax (Appeals) by order dated 1st February 2019 had remanded the matter to the assessing officer for fresh consideration. The Tribunal had affirmed the order of remand. On remand the assessing officer has passed an effective order on 17th March, 2020 by which the substantial amount of the disallowance under Section 14A to the extent of Rs.270 lakhs was deleted and the case of the assessee was accepted. The remaining amount was Rs.25.52 lakhs of disallowance under Section 14A in terms of the remand order dated 21.02.2017. If the said amount is reckoned even without reference to the order the tax effect will be about Rs.10 lakhs. If that is so the revenue cannot pursue the said substantial question of law No. 2. With regard to the first substantial question of law we find that the issue was whether the assessee was entitled to get benefit of additional depreciation at 10% amounting to Rs.1,35,64,743/- on the assets purchase and put to use in later half of the financial year 2012-13. Assuming the said ground is decided against the assessee then also the tax effect on the said amount will be less than Rs.50 lakhs. Thus the tax effect on both the question which have been raised before us will be less than the threshold limit fixed by the C.B.D.T. which will disentitle the appellant/revenue from pursuing this appeal. Consequently, the appeal filed by the revenue is dismissed on the ground of low tax effect. The substantial questions of law are left open and since the appeal in respect of the respondent/assessee for the assessment year 2008-2009 in ITAT No. 291 of 2017 had already been admitted on 11th December, 2021 it would be open to the revenue to pursue the said appeal independently.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH