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

ITAT/184/2022
IA NO. GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA
Versus
M/S BHAGWATI VINTRADE PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Dated : NOVEMBER 18, 2022.

Appearance:
Mr. Samarjit Roychowdhury, Adv.
Mr. Soumen Bhattacharjee, Adv.
…for appellant
Mr. S.M. Surana, Adv.
Mr. Bhaskar Sengupta, Adv.
…for respondent

The Court :- This appeal filed by the revenue is directed against the order dated 17.02.2021 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata (Tribunal) in ITA No. 303/Kol/2020 for the assessment year 2013-2014.

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

i) Whether the Learned Tribunal has committed substantial error in law by not upholding the order passed under section 263 of the Income Tax Act, 1961 by Principal Commissioner of Income Tax as because the assessment order passed by the assessing officer is erroneous and so far as prejudicial to the interest of the Revenue ?

ii) Whether the Learned Tribunal has committed substantial error in law by holding that the revisionary power of PCIT under Section 263 of the Income Tax Act, 1961 is bad in law and quashing the same, whereas the Hon'ble Apex court in the matte of Rampyari Devi Sarogi Vs. CIT (1968) 67 ITR 84 (SC) AND Tara Devi Agarwal – Vs. CIT (1973) 88 ITR 323 (SC) held that in absence of proper enquiries the assessment order would become erroneous and prejudicial to the interest of the Revenue ?

iii) Whether the Learned Tribunal has committed substantial error in law in quashing the order under section 263 of the Act of PCIT dated 21.02.2020 whereas Apex Court in the case of Pr. CIT –Vs – NRA Iron Steel Pvt. Ltd. held that the practice of conversion of unaccounted money through the cloak of share capital and premium must be subjected to careful scrutiny ?

We have heard Mr. Samarjit Roychowdhury, learned standing Counsel along with Mr. Soumen Bhattacharjee for the appellant and Mr. S.M. Surana, learned Counsel duly assisted by Mr. Sengupta, learned Advocate for the respondent.

On perusal of the order passed by the learned Tribunal we find that the finding recorded by the learned Tribunal is fully justified. We support such conclusion with the following reasons:

The present proceeding arising out of the second round of proceedings under Section 263 of the Act. The learned Tribunal has carefully considered the factual position and noted that assessing officer has followed the direction issued in the earlier order passed by the Section 263 of the Act. The Assessing Officer has issued summons under Section 131 of the Act to the directors of the Shareholding Company M/s. Laxmi Timber Pvt. Ltd. in consonance with the direction issued by the Principal Commissioner of Income Tax under Section 263 of the Act. This finding would be seen from paragraphs 5 to 7 of the assessment order. Thus the learned Tribunal on re-verification of the facts found that this is not a case of non application of mind nor this is a case of failure to re-appreciate the facts and concluded that the view taken by the assessing officer was a plausible view. That apart we note that the assessing officer conducted thorough enquiry and has also examined the directors of the holding company.

Thus the learned Tribunal rightly dismissed the appeal filed by the revenue.

Considering the facts and circumstances of the case we find that there is no question of law much less substantial question of law arising for consideration in this appeal. Accordingly, the appeal fails and dismissed.

Consequently, the application also stands disposed of.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.