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

ITAT/297/2011
IA NO. GA/1/2011 (OLD NO. GA/3178/2011)
GA/2/2011 (OLD NO. GA/3180/2011)
COMMISSIONER OF INCOME TAX, KOLKATA - IV, KOLKATA
VS.
M/s. PHILIPS INDIA LTD.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 11th May, 2022.

Appearance :
Mr. Prithu Dudheria, Adv.
....for appellant
Mr. A.K. De, Adv.
...for respondent

The Court : This appeal by the revenue is directed against the order dated 27th January, 2006 passed by the Income Tax Appellate Tribunal "A" Bench, Kolkata in ITA No.1746(Cal) of 1998 for the assessment year 1995-96.

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 Tribunal was justified in law in directing the assessing officer to allow deduction under Section 80HHC of the Act by observing that since Rs.5,17,57,625/- is treated as business income and not as income from other sources and explanation (baa) below sub-section 4B of Section 80HHC is not attracted.

b) Whether on the facts and in the circumstances of the case the Learned Tribunal was justified in law in allowing the claim off the assessee to enhance the profit derived by the assessee on export of goods by the amounts specified in the Proviso to Section 80 HHC(3) of the Income Tax Act, 1961.

c) Whether on the facts and in the circumstances of the case the Learned Tribunal was justified in law in holding that the expenditure incurred by the assessee on repair of Glass Furnaces installed in the Kalwa Light Factory falls in the category of current repairs and thereby directing the A.O. to allow the claim of the assessee in respect of current repairs at Rs.1,44,90,170/-.

d) Whether on the facts and in the circumstances of the case the Learned Tribunal was justified in law in holding that a sum of Rs.5,20,29,627/- representing the year and cumulative balance of liability incurred by the assessee in an allowable expenditure.

We have heard Mr. Prithu Dudheria, learned standing counsel appearing for the appellant and Mr. A K De, learned counsel appearing for the respondent.

There is a delay of 1950 days in filing the appeal. We have perused the affidavit filed in support of the condone delay petition and we find absolutely no reason has been assigned by the department for not being able to file the appeal within the time permitted under the Act. The dates and events which led to the delay in filing the appal have not been set out. Thus, in the absence of any explanation for the inordinate delay we have to necessarily hold that sufficient cause has not been shown by the appellant/department for not preferring the appeal within the period of limitation fixed under the Act. Therefore, the application for condonation of delay stands dismissed.

Consequently, the appeal is rejected and substantial questions of law, as suggested by the revenue are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)