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

ITAT/218/2022
IA NO: GA/1/2022, GA/2/2022
PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL) - 2 KOLKATA
VS
M/S BRIDGE AND BUILDING CONSTRUCTION CO. PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Dated : NOVEMBER 28, 2022.

Appearance:
Mr. Om Narayan Rai, Adv.
Mr. Prithu Dudhoria, Adv.
…for appellant

The Court :- We have heard learned standing Counsel for the appellant Mr. Prithu Dudhoria and Mr. Om Narayan Rai. Notice on the respondent has been served and the same has returned with the postal endorsement "unclaimed" which is deemed to be proper service.

We have perused affidavit filed in support of the petition and found sufficient cause has been shown for not being able to prefer the appeal within the period of limitation.

Hence, the delay in filing the appeal is condoned. The petition stands allowed.

This appeal has been filed under Section 260A of the Income Tax Act, 1961 (the Act for brevity) is directed against the order dated December 23, 2021 passed by the Income Tax Appellate Tribunal "B" Bench Kolkata in I.T.A. Nos. 375 & 534/Kol/2018 relating to the Assessment Year 2014-2015.

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

i) WHETHER on the facts and in the circumstances of the case, the Learned Income Tax Appellate Tribunal has substantially erred in law in reducing the Net Profit Percentage from 8% as estimated by the Learned CIT (A) to 0.6% without examining the in detail the facts and materials that evinced the assessee had been engaged in claiming bogus purchase and expense by accepting accommodation entries which were brought on record by the Assessing Officer and the Learned CIT (A) inasmuch as such reduction in estimation of Net Profit Percentage could not have been done by a person of Normal Prudence on such facts and materials brought and available on record especially when the assessee was found to have been engaged in the business of construction and the assessee had not brought any fresh material or evidence before the Learned Income Tax Appellate Tribunal which justified and corroborated the decision of Learned Income Tax Appellate Tribunal of reduction of Net Profit Percentage from 8% to 0.6% ?

We have heard Mr. Prithu Dudhoria, learned standing Counsel for the appellant. The short question which falls for consideration is whether the Net Profit has arrived at by the Tribunal at 6% was just and proper. On going through the order passed by the learned Tribunal we find that the Tribunal has not only considered the estimation of the Net Profit in respect of the assessee's sister concern but has also taken note of the Net Profit declared by the assessee for the assessment year 2009-2010 to 2011-2012 which were within the range of 0.2% to 0.29% and even in the scrutiny proceeding of the assessee's case Net Profit was estimated below one per cent. That apart the Tribunal found on facts that the business during all the years was the same and there was no change and the books of accounts was duly audited and no error was pointed out by the concerned authority. Thus we find that the entire matter is factually correct and no substantial question of law arises for consideration. Hence, the appeal fails and dismissed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

sp./ GH