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

ITAT/219/2015
IA NO. GA/1/2015 (OLD NO. GA/4030/2015)
JNJ FINANCE COMPANY PRIVATE LIMITED
VS.
COMMISSIONER OF INCOME TAX, KOLKATA - 1

BEFORE :

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

Appearance :
Ms. Swapna Das, Adv.
Mr. Siddhartha Das, Adv.
...for appellant
Ms. Smita Das De, Adv.
...for respondent

The Court : This appeal by the assessee filed under Section 260A of the Income Tax Act, 1961 (the Act for brevity) is directed against the order dated August 10, 2015, passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata in I.T.A. No. 888/Kol/2014 for the assessment year 2008-09.

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

i) Whether on the facts and circumstances of the case, the Learned Tribunal is correct in law and on facts in holding that the order dated 27.12.2010 passed in pursuance of the proceedings u/s 147 on specific issue and wherein the subject matter of the share capital was not involved can be revised u/s 263 and as such the order u/s 263 is barred by limitation?

ii) Whether the Learned Tribunal was justified in holding that the first proviso to section 68, which has been inserted by the Finance Act, 2012 with effect from 01.04.2013, applies to the assessment year 2008-09?

iii) Whether the Learned Tribunal has in effect given a direction to the Assessing Officer to give effect to the first proviso to Section 68 while framing reassessment pursuant to order passed by Learned Commissioner of Income Tax under Section 263 and the said action of the Learned Tribunal is beyond its scope of powers and jurisdiction ?

We have heard Ms. Swapna Das, learned Advocate appearing with Mr. Siddhartha Das, Advocate for the appellant and Ms. Smita Das De, learned Advocate for the respondent.

We find from the order passed by the learned Tribunal that a batch of cases on similar issue was dismissed by the Tribunal following its earlier order in the case of *Subhalakshmi Vanijya Pvt. Ltd. V. CIT* in ITA No. 1104/Kol/2014 for the assessment year 2009-2010. It appears that said decision had attained finality and all the orders passed earlier with similar reasoning have also attained finality. Furthermore, we find from the facts of the case the Tribunal rightly held that the assumption of jurisdiction under Section 263 of the Act was justified and would satisfy the statutory requirements.

Thus we find that there is no question of law, much less substantial question of law arising out for consideration in this appeal. Therefore, this appeal stands dismissed.

Consequently, the stay application being GA/1/2015 (Old No. GA/4030/2015) stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

SN/GH.
AR(CR)