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

ITA/23/2011

THE COMMISSIONER OF INCOME TAX, II, KOLKATA
VS.
M/s. NAGREEKA EXPORTS LIMITED

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 1st March, 2023

<u>Appearance</u> :
Mr. Soumen Bhattacharjee, Adv.
...for appellant

The Court : - This appeal has been filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 23.4.2010 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata in I.T.A. No. 89/Kol/2009 relating to the Assessment Year 2003-2004.

The appeal was admitted on 22.12.2010 on the following substantial questions of law :-

i) Whether on the facts and in the circumstances of the case, the Learned Income Tax Appellate Tribunal was justified in law in directing the Assessing Officer to recompute the deduction under Section 80HHC of the Income Tax Act, 1961 by excluding net interest as computed by the co-ordinate Bench in the case of M/S Opal International-vs-ACIT ?

ii) Whether on the facts and in the circumstances of the case, the Learned Income Tax Appellate Tribunal, Kolkata erred in allowing interest income of Rs.15,26,360/- from fixed deposit in bank as income from Business ?

It is submitted by the learned standing Counsel for the appellant that tax effect I this appeal is less than the threshold limit as could be seen from the order passed by the Commissioner of Income tax, Appeals dated 17.12.2008 whether the tax which has been demanded is Rs.56,29,926/- which is less than Rs.1 crore. Therefore, the revenue cannot pursue the appeal.

Accordingly, the appeal stands disposed of on the ground of low tax effect.

The substantial questions of law which have been admitted are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.