OD-15

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

ITAT/40/2023
IA NO: GA/2/2023

PRINCIPAL COMMISSIONER OF INCOME TAX 1 KOLKATA
VS.
M/S. KARB ASSOCIATES PVT. LTD.

BEFORE :
THE HON'BLE T.S. SIVAGNANAM ACTING CHIEF JUSTICE
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 10th April, 2023

Appearance :
Mr. Amit Sharma, Adv.
.....for appellant
Mr. Ejaj Khan, Adv.
Mr. Dibyangshu Das, Adv.
Mr. Rahul Singh, Adv.
Ms. Ananya Adhikari, Adv.
...for respondent

The Court : - This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 13th May, 2022 passed by the Income Tax Appellate Tribunal "C" Bench Kolkata (the Tribunal) in ITA 2056/Kol/2019 for the assessment year 2011-12. The revenue has raised the following substantial question of law for consideration :-

i) Whether the Learned Tribunal substantially erred in law by allowing deduction under Section 80IB of the said Act for a project which is not eligible for such deduction?

Heard learned Counsel for the either sides.

The short issue falls for consideration in the instant case is whether the Commissioner of Income Tax (Appeals) was justified in allowing the deduction claimed by the assessee under Section 80IB of the Act which order was affirmed by the Tribunal. After going through the facts of the case and on perusal of the order passed by the Tribunal we find that consistently such a deduction has been allowed and during the first year in which it was allowed. Thereafter, the assessing officer after due verification has allowed the deduction for the subsequent years i.e. 2004-2005 and 2005-2006. Thus the deduction having been allowed in the initial years, the revenue cannot deny the same in the subsequent years. The Tribunal rightly noted the above legal position and also the decisions on the point, and, therefore, we find that no grounds to interfere with the order passed by the Tribunal.

Accordingly, the appeal fails and dismissed. The substantial question of law is answered against the revenue.

The application stands disposed of.

(T.S. SIVAGNANAM)
ACTING CHIEF JUSTICE)

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH