OD – 13

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Income Tax]

ORIGINAL SIDE

ITA/66/2009

COMMISSIONER OF INCOME TAX,
BURDWAN
VS
PASCHIM BANGYA GRAMIN BANK

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 19th December, 2023

Appearance :
Sri Vipul Kundalia, Adv.
Sri Amit Sharma, Adv.
Sri Anurag Roy, Adv.
..for the appellant.

Sri R.N. Dutt, Adv.
Smt. Sutapa Roy Choudhury, Adv.
Smt. Aratrika Roy, Adv.
...for the respondent.

1. Heard Sri Vipul Kundalia, learned senior standing counsel for the appellant and Smt. Sutapa Roy Choudhury, learned counsel for the respondent.

2. By the impugned order dated 14.10.2008 in ITA Nos. 899, 900, 901 & 902/Kol/2008 (assessment years 2000-01, 2002-03 and 2005-06) the Income Tax Appellate Tribunal, Bench – C, Kolkata allowed the appeal of the respondent/assessee, following its earlier decision inter parties in ITA No.1094/Kol/2007 involving similar question. Against the order of the Tribunal in the aforesaid ITA No.1094/Kol/2007, the Income Tax Department preferred an Income Tax Appeal being

ITA/460/2008 [Commissioner of Income Tax, Burdwan Vs. Paschim Bangya Gramin Bank] before this Court which was dismissed by a judgment and order dated 9.2.2023. Despite being asked, the learned counsel for the appellant could not state as to whether the department has preferred any appeal before the Hon'ble Supreme Court against the aforesaid judgment and order dated 9.2.2023 in ITA/460/2008 passed by a co-ordinate Bench of this Court.

3. In view of the aforesaid, since the Tribunal has formally followed its earlier order inter parties in ITA No.1094/Kol/2007 involving similar facts and issues, which have been affirmed by a co-ordinate Bench of this Court by the judgment and order dated 9.2.2023 in ITA/460/2008, therefore, we dismiss the appeal and answer the substantial question of law against the revenue and in favour of the assessee.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

S.Das/