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

ITAT/55/2023
IA NO: GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX-5, KOLKATA
VS
SMT. SUMAN AGARWAL, KOLKATA

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

<u>Appearance</u> :
Ms. Smita Das De, Adv.
... for the appellant.
Mr. Soumya Kejriwal, Adv.
..for respondent

The Court : This appeal by the revenue filed under Section 260A of the Income Tax, 1961 (the Act) is directed against the order dated 30th March, 2022 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata in ITA No. 2537/Kol/2019 for the assessment year 2016-17.

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

i) Whether in the facts and circumstances of the case the Learned Tribunal was justified in law in allowing relief to the assessee by deleting the addition made on account of unexplained cash credit amounting to Rs.9,80,05,649/- as the assessee was unable to substantiate her claim and explained the complete and true picture of the financial position in the return before the Assessing Officer at the time of scrutiny proceedings ?

ii) Whether in the facts and circumstances of the case the Tribunal was justified in law by not considering the legal issue that where any sum is credited in the Books of an assessee maintained for any previous year, and as such the assessee offers no explanation about the nature and the source thereof or does not offer any satisfactory explanation at the time of assessment the sum so credited may be charged to the income tax as the income of the assessee of that previous year ?

We have heard Ms. Smita Das De, learned standing Counsel for the appellant/revenue and Mr. Saumya Kejriwal, learned counsel appearing for the respondent/assessee.

On perusal of the order passed by the learned Tribunal, we find that the learned Tribunal considered the correctness of the order passed by the Commissioner of Income Tax (Appeals) [CIT(A)] who had on perusal of the grounds raised before him had called for a remand report from the assessing officer, thereafter analysed the remand report and found that the alleged unexplained cash credit was due to an inadvertent mistake committed by an employee of the assessee, who had inadvertently consolidated the assets and liabilities for the personal file of the assessee with the assets and liabilities of the proprietorship concern. Further, taking note of the factual position, the learned Tribunal affirmed the finding rendered by the CIT(A).

Thus, we find no substantial questions of law arise for consideration in this appeal.

Hence, the appeal is dismissed.

The stay application being GA/2/2023 also stands dismissed.

(T.S. SIVAGNANAM, J.)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

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