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

ITAT/60/2023
IA NO. GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX -2, KOLKATA
Vs.
RYDAK SYNDICATE LTD.

BEFORE:
THE HON'BLE T. S. SIVAGNANAM ACTING CHIEF JUSTICE
AND
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 12TH APRIL, 2023.

Appearance:
Mr. Tilak Mitra, Adv.
...for appellant
Mr. J.P. Khaitan, Sr., Adv.
Mr. Swapna Das, Adv.
Mr. S. Das, Adv.
...for respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) challenging the order passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata dated 9.3.2022 passed in ITA No.561/Kol/2021 for the assessment year 2019-2020.

The revenue has suggested the following substantial question of law for consideration :-

i) WHETHER the Learned Tribunal has erred in law and fact in allowing the claim of the assessee in violation of Section 36(1)(va) of the Income Tax Act, 1961 even though the assessee failed to deposit employee's contribution to the Provident Fund within due date?

We have heard Mr. Tilak Mitra, learned standing Counsel for the appellant/department and Mr. J.P. Khaitan, Learned Senior Counsel duly assisted by Ms. Swapna Das and Mr. S. Das, learned Advocates for the respondent/assessee.

On the last occasion, it was pointed out by the learned Senior Advocate appearing for the respondent/assessee the tax effect in the instant case is Rs.92,87,087/- and therefore, below the threshold limit and hence the revenue cannot pursue the appeal. To enable the learned Advocate appearing for the appellant/department to get the instruction, the matter was adjourned till today.

Today, on instruction the learned Counsel appearing for the appellant states that he has received a WhatsApp message from the officer of the department stating that the tax effect is Rs.98,81,449/-. It is the submission of the learned standing Counsel for the respondent if the amount is calculated at 7% which was the prevailing rate at the relevant point of time, the tax effect is only Rs.92,87,087/- whereas the department has calculated at the rate of 15%. In any event, even going by the tax effect as mentioned by the department, it is less than Rs.1 crore and, therefore, the revenue cannot pursue the appeal. Accordingly, the appeal stands disposed of on the ground of low tax effect and the substantial question of law is left open.

Consequently, GA/2.2023 stands disposed of.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

GH/Skumar