

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

ITA/122/2011
COMMISSIONER OF INCOME TAX, KOLKATA-IX, KOLKATA
VS.
M/S. PARK INTERNATIONAL

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 2nd March, 2023

*Appearance :
Mr. Soumen Bhattacharjee, Adv.
...for appellant*

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 25.6.2010 passed by the Learned Income Tax Appellate Tribunal "C" Bench, Kolkata in I.T.A. No. 152/Kol/2009 for the Assessment Year 2004-2005 and I.T.A. No.153/Kol/2009 for the assessment year 2005-2006.

As rightly pointed out by Mr. Soumen Bhattacharjee, learned Advocate representing the revenue/appellant that the tax effect involved in the instant appeal is Rs.44,94,103/- which is far below the threshold limit as would be evident from the Circular issued by the C.B.D.T.

This appeal was admitted on May 03, 2011 and the following substantial questions of law have been framed by the Hon'ble Division Bench:-

- (i) Whether the learned Tribunal below committed substantial error of law in confirming the order of disallowance in setting side the order of disallowance or labour charges of security guard by totally misconstruing the provisions contained in Section 40(a)(ia) read with Section 194C of the Income Tax Act, 1961?

- (ii) Whether the learned Tribunal below committed substantial error of law in overlooking the fact that the assessee could not produce even the address of the labour sardar to whom money was allegedly paid and in such circumstances, whether the learned Tribunal below passed the perverse judgment in setting aside the order of the authorities ?

In view of the fact that the tax effect is below the threshold limit the revenue cannot proceed with this appeal any further.

In view thereof, the appeal stands dismissed and the substantial questions of law framed in this appeal are, however, left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)