O-75

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

ITA/125/2009
M/S. BINANI ZINC LTD.
VS.
COMMISSIONER OF INCOME TAX III, KOLKATA & ANR.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 13th February, 2023

Appearance :
Mr. A.K. Dey, Adv.
... for appellant
Mr. Prithu Dudhoria, Adv.
... for respondent

The Court : This appeal filed by the assessee filed under Section 260A of the Income Tax, 1961 (the Act) is directed against the order dated 30th January, 2009, passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata (Tribunal) in ITA No.657/Kol/2007 for the assessment year 2004-05.

The appeal was admitted on 15th July, 2009 on the following substantial questions of law :-

"i) Whether the Tribunal below was justified in disallowing the expenditure of Rs.3,35,29,347/- incurred by the assessee for preparation of feasibility study report in earlier years, but written off during the previous year corresponding to the assessment year 2004-05 since the proposed project was abandoned when the Tribunal itself has found that the expenses were revenue expenditure ?

ii) Whether interest can be charged under Section 234B and 234C of the Income Tax Act, 1961 on the tax payable on the total income as computed under Section 115JB of the Act in the case of the assessee ?””

Mr. A.K. Dey, learned Advocate appearing for the appellant has produced written instruction received from his client vide a letter dated 15th December, 2022 wherein the appellant has requested the learned Advocate to withdraw the appeal.

In the light of the said communication, which is placed on record, the appeal stands dismissed as withdrawn. Consequently, the substantial questions of law are left open.

Let a copy of the letter dated 15th December, 2022 be kept on record.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Pal/SN