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

ITA/106/2012
COMMISSIONER OF INCOME TAX, KOLKATA – II, KOLKATA
Vs.
M/s. NAGREEKA EXPORTS LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 20TH FEBRUARY, 2023

Appearance :
Mr. Soumen Bhattacharyya, Adv.
..for appellant
Mr. R. K. Murarka, Adv.
Mr. Vivek Murarma, Adv.
…for respondent.

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 29.03.2010 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata in ITA No. 2203/Kol/2010 and ITA No. 2634/Kol/2003 for the assessment year 1994-95. The appeal was admitted on 24.8.2012 on the following substantial questions of law :-

i) Whether on the facts and in the circumstances of the case, the learned Tribunal was justified in law in holding that the initiation of proceedings under section 147 of the Income Tax Act and the assessment made in pursuance thereof is not valid, bad in law and without jurisdiction?

ii) Whether on the facts and in the circumstances of the case, the learned Tribunal was justified in law in deciding the issue of deduction under section 80HHC without considering the various decisions cited on behalf of the revenue ?

We have heard Mr. Soumen Bhattacharjee, learned standing Counsel and Mr. R.K. Murarka, duly assisted by Mr. Vivek Murarka, learned standing Counsel for the respondent/assessee.

It is pointed out by the learned Advocate appearing for the respondent that the tax effect involved in this appeal is less than the threshold limit fixed by the C.B.D.T. and the revenue cannot pursue this appeal. To support the said contention the reference was made to the reassessment order which shows that the tax on income along with surcharge is Rs.84,31,422/-. If that be the case the revenue cannot pursue the appeal.

Accordingly, the appeal stands disposed of on the ground of low tax effect and the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.