OD–9

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

ITA/292/2004
IA NO. GA/2/2017 (Old No.GA/2513/2017)
C.I.T. CENTRAL-III, KOLKATA
VS.
PRADEEP KUMAR DEORA

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
Mr. Avra Mazumder, Adv.
Mr. Suman Bhowmik, Adv.
Mr. Samrat Das, Adv.
…for respondent

The Court : - It appears from the record that this appeal stood dismissed on April 28, 2015 for non compliance of the order dated March 12, 2015.

Mr. Bhattacharjee, learned Advocate submits that the appellant has taken out an application for recalling the order dated April 28, 2015 being GA no. 2513 of 2017 which has been renumbered as GA/2/2017. However, it has been reported by the department that the said application is not traceable in the department. Mr. Bhattacharjee files photocopy of the said application which is taken on record and the same shall be treated to be the original till the original is traced out. The department is directed to trace out the original application and tag the same along with the records of this case.

After going through the averments contained in the said application and upon hearing the learned Advocate for the respective parties this Court is of the view that the petitioner has shown sufficient cause for non-compliance of the order dated March 12, 2015. In view thereof, the order of dismissal dated April 28,2015 is recalled and the appeal is restored to its original file and number.

With the consent of the learned Advocate for the respective parties this appeal is taken up for hearing by treating the same as on the day's list.

Mr. Bhattacharjee, learned Advocate representing revenue submits that the tax effect involved in this appeal relating to assessment years 1994-95, 1995-96, 1996-97, which is Rs.2,09,530/-, Rs.5,66,274/- and Rs.1,11,175/- respectively are below the threshold limit fixed by the C.B.D.T.

In view thereof, the revenue cannot proceed with this appeal any further.

The substantial question of law framed by the Hon'ble Division Bench on February 7, 2005 admitting the appeal is set out hereinbelow :-

i) Whether on the facts and in the circumstances of the case, the expenditure said to have been made on account of the tour of the official of a company at the hands of company having been disallowed and added to its income, the self-same amount being claimed by the official in his individual capacity as an assessee in his own income as an expenses for undertaking the tour on behalf of the company could be allowed to be deleted in course of a block assessment for the period ended 28th of February, 1996 comprising of assessment year 1994-95, 1995-96 and 1996-97 and the finding of the learned Tribunal was perverse ?

Since the tax effect is far below the threshold limit the revenue cannot proceed with this appeal any further. In view thereof, this appeal stands dismissed and the aforesaid question substantial question of law is left open.

Consequently, the application stands closed.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.