OD – 6

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Income Tax]

ORIGINAL SIDE

ITAT/131/2023
IA NO.GA/1/2023

PRINCIPAL COMMISSIONER OF INCOME TAX-9, KOLKATA

-Versus-

M/S. CELLBIZ SERVICES

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE AJAY KUMAR GUPTA
Date : 28th June, 2023

<u>*Appearance :*</u>
Mr.Tilak Mitra,Adv.
for the appellant.

The Court : Affidavit of service filed in Court today be kept on record.

This appeal has been filed under Section 260A of the Income Tax Act, 1961 (the Act) by the revenue challenging an order dated November 21, 2022 passed by the Income Tax Appellate Tribunal, C-Bench, Kolkata in ITA No.1583/Kol/2018 relating to assessment year 2012-13.

The revenue has raised the following substantial questions of law for consideration :

"(i) WHETHER the Learned Tribunal has erred in law and in fact in agreeing with the decision of CIT(A) to give relief to the assessee against addition made under section 40A(3) of the Income Tax Act for Rs.7,20,27,038/-?

(ii) WHETHER the Learned Tribunal has erred in law and in fact in ignoring the extent provisions of section 40A(3) of the Income Tax Act, wherein

> *it has been stated that even aggregate payment made to a person in a single day in excess of Rs.20,000/- shall attract the provisions of section 40A(3) of the Act?"*

We have heard Mr.Tilak Mitra, learned standing counsel appearing for the appellant/revenue.

The issue which falls for consideration is whether the Commissioner of Income Tax (Appeals) – 7, Kolkata [CIT(A)] was justified in deleting the addition made by the assessing officer under Section 40A(3) of the Act by his order dated 24th April, 2018. The learned Tribunal after considering the submissions on either side examined the business model of the assessee functions and also noted the factual findings recorded by the CIT(A) wherein it was held that the cash book, purchase register and all individual invoices where cash transactions had taken place have been thoroughly checked and it is found that not a single such transaction actually exceeded the threshold limit of Rs.20,000/-. Therefore, the learned Tribunal affirmed the view taken by the CIT(A) that there is no violation of the provisions of Section 40A(3) of the Act.

Thus, we find that the matter is entirely factual. Therefore, we find no question of law much substantial question of law arises for consideration.

Accordingly, the appeal fails and is dismissed. Consequently, the connected application stands closed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(AJAY KUMAR GUPTA, J.)

S.Das/