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

ITA/142/2011
COMMISSIONER OF INCOME TAX, KOLKATA-1
VS.
M/S. ASHDIL SALES PROMOTION PRIVATE LIMITED

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

<u>Appearance</u> :
Mr. Amit Sharma, Adv.
…for appellant
Ms. Sapna Das, Adv.
Mr. S. Das, 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 11.1.2010 passed by the Learned Income Tax Appellate Tribunal "C" Bench, Kolkata in I.T.A. No. 1694/Kol/2009 (between Income Tax Officer, Ward-3(1), Kolkata-versus-Ashdil Sales Promotion Private Limited) for the Assessment Year 2006-2007.

As rightly pointed out by Mr. Amit Sharma, learned Advocate representing the revenue/appellant that the tax effect involved in the instant appeal is Rs.52,66,231/- 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 July 13,2011 on the following substantial question of law as framed by the Hon'ble Division Bench:-

(i) Whether the learned Tribunal below committed substantial error of law in holding that the share transaction with delivery of share is a speculative transaction within the meaning of Explanation to Section 73 of the Income-tax Act, 1961, notwithstanding the fact that in view of section

43(5) of the Act, such type of transaction does not come within the purview of speculative transaction ?

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 question of law framed in this appeal is, however, left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.