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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION [INCOME TAX]
ORIGINAL SIDE

ITAT/136/2023
IA NO. GA/1/2023
PRINCIPAL COMMISSIONER OF INCOME TAX 1, KOLKATA
-VS-
M/s. PATTON INTERNATIONAL LTD.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE AJAY KUMAR GUPTA
Date : 21ST June, 2023

Appearance :
Ms. Smita Das De, Adv.
Mr. Prithu Dudhoria, Adv.
...for the appellant
Mr. Hemant Tiwari, 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 November 22, 2022 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata in I.T.A. No. 261/Kol/2022 for the assessment year 2017-2018.

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

(a) WHETHER on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law in allowing the appeal of the respondent/assessee by quashing the order passed under Section 263 of the Income Tax Act, 1961 without considering the fact that assessment order passed by the Assessing Officer was erroneous in so far as prejudicial interest of the revenue ?

(b) WHETHER on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law in not appreciating the fact that at the time of assessment proceedings Assessing Officer failed and/or neglected to obtain 80G certificate from the done and the payment advised for allowing the claim of the assessee ?

We have heard learned Counsel on either side.

The short question involved in this appeal is whether the Principal Commissioner of Income Tax, Calcutta – 1 was right in assuming jurisdiction under Section 263 of the Act for passing an order on 24.03.2022. On perusal of the order passed by the Tribunal we find that Tribunal has examined the entire facts on all the three issues which were pointed out in the order passed under Section 263 of the Act. After being satisfied that a thorough enquiry had been conducted by the assessing officer, the Tribunal held that assumption of jurisdiction under Section 263 of the Act was not in accordance with law. Pertinently, in paragraph 7 of the impugned order the Tribunal points out the three issues in the present case are purely on facts, which are verifiable from the records of the assessee. Further, the Tribunal states that the examination and on verification of the record as placed in the paper book also reveal a correct state of affairs in respect of the issues raised in the order passed under Section 263 of the Act, and that the department could not bring any material on record to controvert the variable factual position.

Thus we find that there is no question of law, much less substantial question of law arising for consideration in this appeal.

Accordingly, the appeal fails and dismissed.

Consequently, the application also stands dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(AJAY KUMAR GUPTA, J.)

pkd/GH.