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ITA/477/2008

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

COMMISSIONER OF INCOME TAX,
ASANSOL

-Versus-

SRI NANDLAL AGARWAL

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 14th March, 2023

Appearance :
Mr. Amit Sharma, Adv.
...for the appellant.

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the 'Act' for brevity) is directed against the order dated 30th November, 2007 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (the Tribunal) in ITA No.1463/Kol/2006 or the assessment year 1990-91.

The appeal was admitted on 11th August, 2008 on the following substantial questions of law:

(i) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal

was wholly wrong in holding that the re-assessment order passed by the Assessing Officer on 29th March, 2004 under Section 144/250 of the Income Tax Act is barred by limitation and is void ab initio even without considering the applicability of the relevant provisions of law prevailing at the relevant point of time ?

(ii) Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was justified in holding that the pending proceeding will be affected by any amendment brought during the pendency of the case i.e., amendment to Section 153(2A) of the Income Tax Act, 1961 ?

We have heard Mr. Amit Sharma, learned standing counsel for the appellant/revenue.

The notice sent to the respondent/assessee has returned with the endorsement that the respondent is 'deceased'.

On perusal of the order passed by the Commissioner of Income Tax (Appeals), Asansol dated 15th February, 2006 we find that the tax effect involved in this case is Rs.47,36,851/-. If that be the so, the appellant cannot pursue this appeal on the ground that the tax effect is less than the threshold limit of Rs.1 crore.

For the above reason, the appeal (ITA/477/2008) is disposed of on the ground of low tax effect. Consequently, the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

As./K.Banerjee