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

ITAT/186/2023
IA NO.GA/1/2023
COMMISSIONER OF INCOME TAX (EXEMPTIONS), KOLKATA
-Versus-
M/S. TATA MEDICAL CENTRE TRUST, KOLKATA

BEFORE:
The Hon'ble T.S. SIVAGNANAM, CHIEF JUSTICE
-And-
The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA
Date : 26th September, 2023

Appearance :
Ms. Smita Das De, Adv.
..for the appellant

Mr. Abhratosh Majumdar, Sr. Adv.
Mrs. Akshara Shukla, Adv.
...for the 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 3rd March, 2023, passed by the Income Tax Appellate Tribunal, `B' Bench, Kolkata, in I.T.A. No. 287/Kol/2022 for the assessment year 2017-18.

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

a) Whether in the facts and in the circumstances of the case the Tribunal was justified in law to quash the order passed under Section 263 of the said Act on the ground of not mentioning any DIN despite the fact that the DIN for the said order was duly generated and communicated to the assessee through intimation letter along with the said order ?

b) Whether in the facts and in the circumstances of the case the Tribunal was justified in law in not appreciating the fact that the intimation letter enclosing the order passed under Section 263 specifically mentioned that "Order u/s 263 Dt. 29.03.2021 is having Document No. (DIN) ITBA/RVV/S/91/2021-22/1041946687(1)" which forms an integral pat of the order passed under Section 263 ?

c) Whether in the facts and in the circumstances of the case the Tribunal was justified in law in not appreciating the fact that the DIN which was duly generated and communicated alongwith the order passed under Section 263 to the assessee was in compliance of the Circular No. 19/2019 dated 14.08.2019 issued by the CBDT ?

We have heard Ms. Smita Das De, learned standing Counsel appearing for the appellant/revenue and Mr. Abhratosh Majumder, learned senior Advocate, assisted by Mrs. Akshara Shukla, learned Advocate, for the respondent/assessee.

The learned Tribunal in the impugned order has followed its earlier decision in the assessee's own case in ITA No. 238/Kol/2021 and M.A. No. 38/Kol/2022, dated 5th April, 2023. Against the said order the revenue had filed appeal before this Court being ITAT No. 202 of 2023, which was dismissed by judgment dated 26th September, 2023 on the ground that no substantial question of law arises for consideration.

Following the said decision this appeal is dismissed.

The stay application IA No.GA/1/2023 is also dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

SN.
AR(CR)