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

ITA/170/2011
COMMISSIONER OF INCOME TAX, KOLKATA-XIX
VS.
KARTICK CHANDRA DHAR

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

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

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 08.4.2011 passed by the Learned Income Tax Appellate Tribunal "B" Bench, Kolkata in I.T.A. No. 1595 /Kol/2010 for the Assessment Year 2006-2007.

This appeal was admitted by order dated September 28, 2011 on the following substantial question of law :

(i) 'Whether the learned Tribunal below committed substantial error of law in upholding the decision of the CIT(A) in deleting the disallowance of expenses made under the head "carriage charge" of Rs.21,83,220/- under Section 40(a)(ia) for which TDS has not been deducted under Section 194C of the Income Tax Act, 1961 without deciding the same question at all?

(ii) Whether the learned Tribunal below committed substantial error of law in upholding the order of CIT(A) in deleting the disallowance of expenses made under the head "wages" in respect of Rs.10,44,230/- without deciding the same question at all ?

(iii) Whether the learned Tribunal below committed substantial error of law in directing the assessing officer to estimate the profit of the assessee at 5 percent of the gross receipts which is based on no material?'

The learned Advocate for the revenue submits as per written instruction received from the department that the tax effect involved in the instant appeal is Rs.8,29,450/- which is far below the threshold limit as would be evident from the Circular issued by the C.B.D.T.

In view of the above, the revenue cannot pursue this appeal any further.

Accordingly, the appeal stands dismissed and the substantial questions of law are kept open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.