O-101

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

ITA/177/2011
ASHOKE DAS
VS.
UNION OF INDIA & ORS.

BEFORE :

THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 20th February, 2023

Appearance :
Mr. Sukumar Bhattacharya, Adv.
Mr. Dipendra Nath Chunder, Adv.
... for appellant

Mr. Om Narain Rai, Adv.
Mr. Anurag Roy, Adv.
... for respondent

The Court : This appeal filed by the assessee under Section 260A of the Income Tax, 1961 (the Act) is directed against the order dated 31st August, 2010 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (Tribunal) in ITA No.1243/Kol/2009 for the assessment year 2006-07.

The appeal was admitted on 22nd November, 2011 on the following substantial questions of law :-

i) Whether on the facts and circumstances of the present case the Income Tax Appellate Tribunal erred in law by not holding that the expenditure incurred for co-ordination charges does not come within the scope of section 30 to 36 of the Income Tax Act, and as such the assessee is entitled to get benefit of deduction u/s. 37 of the Income Tax Act, 1961 ?

ii) Whether the Learned Appellate Tribunal erred in law in not holding that merely on the basis of the return of notices issued u/s. 133(6) of the Act 1961 after lapse of considerable period would not be sufficient to make disallowance/addition of co-ordination expenses incurred by the assessee?

We have heard Mr. Sukumar Bhattacharya, learned counsel appearing for the appellant/assessee and Mr. Om Narain Rai, learned counsel appearing for the respondent.

It is submitted by the learned Advocate appearing for the appellant/assessee that the appellant has availed the benefit of Vivad Se Viswas Scheme (VSV Scheme) and the matter has reached the stage of issuance of Form 4.

In the light of the same, the assessee seeks not to pursue this appeal and seeks liberty to restore the appeal in the event the department rejects his application under the VSV Scheme.

In the light of the stand taken by the appellant, the appeal stands dismissed as withdrawn with liberty to the appellant to restore the appeal in the event the settlement process does not fall through.

While seeking for restoration, the Registry shall not insist upon any application for condonation of delay but as and when the application for restoration is filed, the same be listed for hearing.

Consequently, the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

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