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

ITAT/250/2023
IA NO: GA/1/2023
COMMISSIONER OF INCOME TAX EXEMPTIONS KOLKATA
VS
M/S. RCC INSTITUTE OF TECHNOLOGY,CIT CAMPUS(OLD),CANAL SOUTH ROAD, BELIAGHATA, KOLKATA

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 13th December, 2023

Appearance :
Ms. Smita Das De, Adv.
...for appellant
Mr. Avra Mazumder, Adv.
...for respondent.

The Court : - This appeal filed by the revenue under Section 260A of th Income Tax Act, 1961 (the Act) is directed against the order dated 9.6.2023 passed by the Income Tax Appellate Tribunal A Bench, Kolkata (the Tribunal) in MA No.16/Kol/2013 arising out of ITAT no. 108//Kol/2022 for the assessment year 2016-17. 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 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 on the facts and in the circumstances of the case the Tribunal was justified in law is not appreciating the fact that the intimation letter enclosing the order passed under Section 263 specifically mentioned that “Order-u/s 263 Dt.31.03.2021 is having Document No. (DIN) ITBA/REV/M/REV5/2020-2021/1032078829(1)” which forms an integral part of the order passed under Section 263.

c) Whether on 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 along with 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 for the appellant and Mr. Avra Mazumder, learned Advocate appearing for the respondent/assessee.

It is not disputed by the revenue that the substantial questions of law which have been raised in this appeal are squarely covered by the decision of this Court in the case of Principal Commissioner of Income Tax, Exemption Vs. Tata Medical Centre Trust, [2023] 154 taxmann.com 600 (Cal).

In the said decision it was held that Document Identification Number (DIN) Intimation letter along with manual order cannot satisfy categorical requirement of incorporating the DIN mandated by CBDT Circular 19 of 2019 and therefore, the order passed under Section 263 manually without DIN was invalid.

The operative portion of the Judgement reads as follows:

4. The short issue which falls for consideration is whether the DIN was mentioned in the order passed under section 263 of the Act. The

learned Tribunal upon examining the facts held that the order does not incorporate the DIN number and it is in violation of the Circular no. 19 of 2019 dated 14th August, 2019. In the said Circular, in paragraph 4 it has been stated that any communication which is not in conformity with Para 2 and Para 3 of the said Circular shall be treated as invalid and shall be deemed to have never been issued. The Tribunal on examination of the facts held that the requirement as mentioned in the Circular namely, quoting of the Document Identification Number, has not been followed and therefore allowed the assessee's appeal.

5. The learned counsel for the appellant submitted that the intimation letter should be treated as part and parcel of the substantive order. However, in the intimation letter there is nothing mentioned as to why in the substantive order the Document Identification Number was not mentioned in the Circular.

6. The revenue filed miscellaneous application seeking for rectification of the said order. Once again the Tribunal has undertaken a factual exercise and in fact, raised a specific query to the revenue to point out how a DIN intimation letter along with the manual order as explained by the Commissioner of Income Tax (Exemption) in his reply fulfils the categorical requirement mandated by the CBDT Circular, more particularly, in paragraph 2 of the said Circular, that the body of the communication, the order under section 263 of the Act, must contain the fact and that the communication issued referred to the DIN without justifying as to how the non compliance of the CBDT Circular dated 14th August, 2019, which was noted by

the Tribunal when it passed the main order. The Tribunal notes that this specific query was unable to be answered by the revenue and therefore the learned Tribunal came to the conclusion that the order passed under Section 263 does not satisfy the requirement mandated by the CBDT Circular.

7. Thus, we find no substantial question of law arises for consideration in this appeal. Accordingly, the appeal is dismissed.

Following the above decision the appeal filed by the revenue is dismissed, as we find that no substantial questions of law arising for consideration in this matter.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.