OD–9

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

ITA/334/2009
WITH
ITA/343/2009
COMMISSIONER OF INCOME TAX, KOLKATA-IV
VS.
M/s. VANTAGE ADVERTISING PVT. LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 20TH FEBRUARY, 2023

Appearance :
Mr. Prithu Dudhoria, Adv.
Mr. Soumen Bhattacharjee, Adv.

Ms. S. Das, Adv.

ITA/334/2009

The Court : - Heard learned Counsel for the either side.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 30.6.2009 passed by the Income Tax Appellate Tribunal 'C' Bench, Kolkata in ITA No. 1055/Kol/2008 for the assessment year 2005-06. The appeal was admitted on 10.12.2009 on the following substantial question of law :-

i) Whether on the facts and in the circumstances of the case the Income-tax Appellate Tribunal erred in law in allowing deduction under Section 80IA in respect of bus shelters without appreciating the fact that the same do not qualify as infrastructural facilities and also do not form integral part of the project as per provisions under Section 80IA of the Income-tax Act, 1961 ?"

It is submitted by the learned Advocate on either side that the tax effect involved in this case is less than the threshold limit fixed by the CBDT. This submission is borne out by record as could be seen from the order passed from Commissioner of Income Tax, Appeals II, Kolkata dated 28.3.2008 where the tax which has been demanded is Rs.57,50,496/-.

In the light of the same the revenue cannot pursue this appeal.

Accordingly, the appeal stands disposed of on the ground of low tax effect and the substantial question of law is left open.

ITA/343/2009

Heard learned Counsel for either side.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 30.6.2009 passed by the Income Tax Appellate Tribunal 'C' Bench, Kolkata in ITA No. 1054 & 1055/Kol/2008 for the assessment year 2004-05. The appeal was admitted on 17.12.2009 on the following substantial question of law :

i) Whether on the facts and in the circumstances of the case, the learned CIT(A) was justified in law in upholding the judgment and order of the learned Tribunal and thereby allowing provisions of 2,18,10,252/- when the liability for the same was not crystalised during the year and it finally got crystalised in the assessment year 2005-2006 at an amount of Rs.1,03,00,000/- ?

ii) Whether on the facts and in the circumstances of the case, learned C.I.T.(A) is justified in law in upholding the decision of the CIT(A) and thereby allowing prior period expenses (net) of Rs.1,26,509/- by observing that it represented only expenses and not receipts

We have heard learned Counsel for either side.

It is submitted by the learned Advocate on either side that the tax effect involved in this case is only Rs.86,64,150/- and, therefore, it is well below the threshold limit of Rs. One crore as fixed by the C.B.D.T. to file appeals before this Court or to pursue the pending appeals.

In the light of the same observation, the revenue cannot pursue this appeal.

In the result the appeals stands disposed of on the ground of low tax effect and the substantial questions of law are left open.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

Pkd/GH.