Form No. J.(2)
Item No.15

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 03.09.2024

DELIVERED ON: 03.09.2024

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 1550 of 2022
With
I.A. No. CAN 1 of 2022

Universe Heights (India) LLP
Vs.
Union of India & Ors.

Appearance:-
Mr. Pratyush Jhunjhunwala
Ms. Sretapa Sinha
Ms. Sruti Datta

.........For the Appellant

Mr. Smarajit Roychowdhury

......For the Respondents/Department

<u>JUDGMENT</u>

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. We have heard Mr. Pratyush Jhunjhunwala, learned advocate appearing for the appellant assisted by Ms. Sretapa Sinha, learned advocate and Mr. Smarajit Roychowdhury, learned Senior Standing Counsel appearing for the respondents/department.

2. learned Senior Standing Counsel appearing for the respondents/department has produced a copy of the written instruction given by the department, which is to the following effect:-

"F. No. IO/W-33(1)/High Court/Kolkata/2024-25/15 Date : 08.05.2024
To,
Smarajit Roy Chowdhury,
Ld. Counsel, High Court, Kolkata,
8, Old Post Office Street, 2nd floor,
Kolkata-700001.

Sub: Filing an affidavit before the Hon'ble High Court in the case of Universe Heights (India) LLP, PAN: AAHFU 2353H, AY 2016-17.

Sir,

In the instant case, the Hon'ble High Court Calcutta has passed an interim order dated 20/12/2023 in MAT NO. 1550 of 2022 with IA No. CAN 1 of 2022.

On perusal of the above order, the Ld. CCIT-2, Kolkata has decided not to pursue the above referred case before the High Court.

Therefore, you are requested to file an Affidavit before the Hon'ble High Court intimating the stands taken by Department of Revenue.

Enclo: Letter of PCIT-9, Kolkata.

Yours faithfully

(SUMAN DAN)
Income Tax Officer
Ward-33(1), Kolkata."

3. In the light of the stand taken by the department and noting that the highest authority of the department has found the reopening to be bad in law and have decided not to proceed with the matter, it goes without saying that the reopening of assessment has to be set aside.

4. In the light of the stand taken by the department, which is placed on record, the appeal and the connected application are allowed and the notice issued

under Section 148A(d) of the Income Tax Act, 1961 and the consequential notice issued under Section 148 of the Act are set aside.

5. No costs.

6. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)

Pallab/Krishnendu AR(Ct.)