OD–27

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

ITAT/2/2024
IA No: GA/1/2024
PRINCIPAL COMMISSIONER OF INCOME TAX-13, KOLKATA
VS.
PARWATI LAKH UDYOG

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 19th February, 2024

Appearance :
Mr. Prithu Dudhoria, Adv.
Mr. Tilak Mitra, Adv.
…for appellant
Mr. Saurabh Bagaria, Adv.
Mr. Rites Goel, Adv.
…for respondent

The Court : We have heard Mr. Prithu Dudhoria, learned standing Counsel appearing for the appellant and Mr. Saurabh Bagaria, learned Counsel for the respondent/assessee.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 26th July, 2023 passed by the Income Tax Appellate Tribunal, `C' Bench, Kolkata in I.T.A No. 44/Kol/2021, for the assessment year 2013-14.

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 Learned Income Tax Appellate Tribunal was justified in law, in not considering the direct and circumstantial evidences got on record by the assessing officer to establish that the assessee had indulged in accommodation entry in the guise of unsecured loan to the tune of Rs.4,99,50,000/- with a view to plough back its unaccounted money without paying legitimate tax on it ?

b) Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law in not considering the direct and circumstantial evidences got on record by the assessing officer to establish that the assessee had indulged in accommodation entry in the guise of interest to the tune of Rs.52,14,990/- accrued on unsecured loan to the tune of Rs.4,99,50,000/- with a view to plough back its unaccounted money without paying legitimate tax on it ?

After we have elaborately heard the learned Advocates for the parties and carefully perused the materials on record, we find no question, much less substantial questions of law, arises for consideration in this appeal. That because of the reasons assailed by the Tribunal in the impugned order, more particularly in paragraph 9 of the order, in that learned Tribunal after re-appreciating the factual position found that the Assessing Officer has not indicated any discrepancy in any of the details furnished by the assessee, such as, financial statements, bank account statements, the PAN number and income tax details. Further, the learned Tribunal noted that the Commissioner of Income Tax (Appeals) [CIT(A)] has also examined each of the cash creditors in detail including the cases where advance of fund were made for the assessee in the preceding year. Further, it has been noted that interests have been paid through banking channels and taxes have been deducted at source. Therefore, the learned Tribunal concluded on facts that the Assessing Officer failed to bring any adverse material against the assessee and the loans borrowed by them. Furthermore, most of the unsecured loans have been repaid during the subsequent period.

Thus, we find there is no question of law, much less substantial question of law, arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed.

The stay petition being IA No: GA/1/2024 also stands dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

SN
AR(CR)