OD-17

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

ITAT/3/2024
IA NO: GA/1/2024

PRINCIPAL COMMISSIONER OF INCOME TAX-2, KOLKATA
Vs
M/S. OUTCOME BUILDCOM PVT. LTD.

BEFORE:
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 3rd May, 2024.

Appearance:
Mr. Tilak Mitra, Adv.
Mr. Prithu Dudhoria, Adv.
...for the appellant

Mr. Rites Goel, Adv.
Mr. Santanu Chakraborty, Adv.
...for the respondent

The Court: This is an appeal filed by the Revenue under Section 260A of the Income Tax Act, 1961 (in short 'the Act'). It is directed against an order dated July 3, 2023 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (in short 'the Tribunal') in I.T.A No.652/Kol/2020 for the Assessment Year 2012-13.

The revenue has raised the following substantial question of law for consideration.

(a) Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was erred in law in deleting the addition of Rs.13,56,00,000/- under Section 68 of the Income Tax Act, 1961 on account of share capital and premium in absence of identity of creditors and, genuineness and creditworthiness of the entire transactions?

The short question which falls for consideration is whether the addition made by the Assessing Officer under Section 68 of the Act was justifiable. The Commissioner of Income Tax (Appeals) – 7 Kolkata (CITA) set aside the addition made and allowed the assessee's appeal. The Revenue carried the matter on appeal. We find from the order passed by the learned Tribunal that the facts of the case have been re-appreciated and the learned Tribunal has recorded a finding that the assessee has demonstrated successfully the nature of the sum received during the year and the source of the said sum being received from the share applicants and complete evidence has been submitted. Further, it has been pointed out that the Assessing Officer has not pointed out any specific error in all the documents nor any discrepancies in the information provided by the assessee. Furthermore, the Tribunal on facts found that the Assessing Officer has not paid any independent enquiry to verify the genuineness of the transaction in spite of the assessee having furnished all details and documents before the Assessing Officer. Thus, we find that the matter is fully factual and no substantial question of law arises for consideration.

Accordingly, the appeal fails and is dismissed.

Consequently, the application stands closed.

(T.S. SIVAGNANAM, CJ.)

(HIRANMAY BHATTACHARYYA, J.)

bp/R.Bhar