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IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Income Tax]

ORIGINAL SIDE

ITAT/6/2024
IA NO: GA/1/2024, GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL -2, KOLKATA
VS
SHANTINATH DETERGENTS PVT. LTD.

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : 31st January, 2024

<u>*Appearance :*</u>
Mr.Om Narayan Rai, Adv.
Mr.Soumen Bhattacharjee, Adv.
...for the appellant.

Mr.Abhratosh Majumdar, Sr. Adv.
Ms. Swapna Das, Adv.
Mr.Siddharth Das, Adv.
..for the respondent.

The Court : There is a delay of 260 days in filing the appeal. We have perused the affidavit filed in support of the condone delay application and we are satisfied with the explanation offered and the delay in filing the appeal is condoned.

Accordingly, the application GA/1/2024 stands allowed.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 22nd November, 2022 passed by the Income Tax

Appellate Tribunal, A-Bench, Kolkata in ITA No.467/Kol/2021 (the Tribunal) for the assessment year 2014-15.

The revenue has raised the following substantial questions of law :

> *"(a) Whether the Learned Tribunal has committed substantial error in law by allowing the appeal of the assessee and consequently the assessee's rectification petition filed under Section 154 of the Income Tax Act thereby claiming the sales tax incentive received from the State Government under West Bengal Industrial Promotion (Assistance to Industrial Units) Scheme, 2010 as capital receipt in place of Revenue Receipt ignoring the fact that the assessee not only failed to lodge its claim under Section 139(1) of the Act but also failed to lodge its claim under Section 139(5) of the Act by way of filing of revised returned of Income?*
>
> *(b) Whether the Learned Tribunal has committed substantial error in law by reversing the decision of CIT(A) and disallowing the ground of appeal of the Revenue relating to taxability of sales tax subsidy which was not offered for taxation by the assessee in its return of income, more so when the facts relating to the same were not available on record and the Assessing Officer did not get any scope to examine the said issue by verifying the records and documents which were or could be prejudicial to the interest of the Revenue?"*

We have heard Mr. Soumen Bhttacharjee, learned standing counsel appearing for the appellant/revenue and Mr. Abhratosh

Majumdar, learned senior counsel appearing for the respondent/assessee.

It is not in dispute that in the assessee's own case for the assessment years 2009-10 to 2013-14 and 2015-16 the issue raised in this appeal was decided on merits in favour of the assessee and against the revenue in ITAT/44/2023 dated 27th March, 2023. Thus, following the said decision, the appeal and the application (GA/2/2024) filed by the revenue stand dismissed.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(SUPRATIM BHATTACHARYA, J.)

S.Das/