O-58

ITA/15/2018

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (Income Tax)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF
INCOME TAX, CENTRAL-2, KOLKATA

-Versus-

M/S. SHUBHAM IMPEX (P) LTD.

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date :30th April, 2024

Appearance:
Ms. Smita Das De, Adv.
...for the appellant.

1. Heard Ms. Smita Das De, learned standing counsel for the appellants. None appears for the respondent/assessee even after the case was called out.

2. This appeal was admitted by this court by order dated 8.2.2018 on the following substantial question of law:

> *"Whether the finding of the learned Tribunal holding the proceeding under Section 153A of the Income Tax Act, 1961, initiated against the assessee for the relevant assessment year, to be invalid was perverse and without any basis in law ?"*

3. Learned counsel for the appellant states that the assessment years involved in the present appeal are 2006-07 and 2007-08.

4. Learned counsel for the appellant fairly states that the ITAT has granted relief to the respondent/assessee on the ground that the proceedings under Section 153A of the Income Tax Act, 1961 initiated against the respondent/assessee was bad because no incriminating material was found in the search. She submits that the controversy involved is clearly covered against the revenue by the judgment of the Hon'ble Supreme Court in the case of **Principal Commissioner of Income Tax vs. Abhisar Buildwell (P) Ltd. reported in (2023) 149 taxmann.com 399 SC**.

5. In view of the aforesaid, the substantial question of law as framed is answered is answered in favour of the assessee and against the revenue.

6. The appeal (ITA/15/2018) being devoid of merit, is dismissed.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

As.