OD-15

ITA/78/2018

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

PRINCIPAL COMMISSIONER OF INCOME TAX-I, KOLKATA

-VERSUS-

RAMESH PRASAD SAO

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 24th June, 2024.

Appearance:
Mr. Om Narayan Rai, Adv.
... for the appellant.

Mr. Avra Mazumder, Adv.
Ms. Alisha Das, Adv.
Ms. Elina Dey, Adv.
Mr. Sourendranath Banerjee, Adv.
...for the respondent.

1. Heard Sri Om Narayan Rai, learned senior standing counsel for the appellant and Mr. Avra Mazumder, learned counsel for the respondent.

2. This appeal was admitted by this Court by order dated 04.06.2018 on the following substantial question of law :

> *"Whether it was legally correct on the part of the Tribunal to hold that the penalty proceeding was invalid on the ground that show cause notice issued under Section 274 of the Income Tax Act, 1961 was defective, having regard to the conduct of the assessee before the Assessing Officer ?"*

3. Both the learned counsel for the parties jointly state that the controversy involved in the present appeal is squarely covered by the judgment of this Court

in the case of ***Principal Commissioner of Income Tax v. Thakur Prasad Sao & Sons (P) Ltd. r***eported in **[2024] 163 taxmann.com 449 (Cal.)** and, therefore the present appeal also deserves to be disposed of in terms of the aforesaid judgment and the matter deserves to be remanded to the Income Tax Appellate Tribunal with a direction to decide ITA No.997/Kol/2011 (Assessment Year 2007-08) Ramesh Prasad Sao vs. DCIT, Central Circle-XVIII, Kolkata. It is further pointed out by learned counsel for the parties that the respondent in the present appeal arising out of ITA No.997/Kol/2011 and ITA No.1188/Kol/2011, is the director of M/s. Thakur Prasad Sao & Sons (P) Ltd.

4. As jointly prayed by learned counsels for the parties, this appeal (ITA/78/2018) is disposed of in terms of the aforesaid judgment and order dated 02.05.2024 in the case of ***Principal Commissioner of Income Tax v. Thakur Prasad Sao & Sons (P) Ltd. [2024] 163 taxmann.com 449 (Cal.)*** and the matter is remanded to the concerned Income Tax Appellate Tribunal with similar direction.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

As.