ORDER OD – 5

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

ITA/88/2018
PRINCIPAL COMMISSIONER OF INCOME TAX – 4, KOLKATA
VERSUS
M/S. TANTIA CONSTRUCTION LIMITED

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 14th May 2024.

Appearance:

Mr. S. Roy Chowdhury, Advocate
Mr. Soumen Bhattacharjee, Advocate
... for appellant.

Mr. Avra Mazumder, Advocate
Mr. Sumon Bhowmik, Advocate
Ms. Aisha Das, Advocate
Mr. Samrat Das, Advocate
Ms. Moumita Saha, Advocate
... for respondent.

1. Heard Sri S. Roy Chowdhury, learned senior standing counsel for the appellant and Sri Avra Mazumder, learned counsel for the respondent assessee.

2. This appeal was admitted by this Court by order dated 04.07.2018, on the following substantial question of law:-

> *"Whether finding of the Tribunal that the assessee as a developer was entitled to benefit of Section 80-IA of the Income Tax Act is perverse or not?"*

3. The present appeal relates to assessment years 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09, arising out of the impugned order of

the Income Tax Appellate Tribunal 'C' Bench, Kolkata dated 23.09.2016 in IT(SS)A No.58 and 60/Kol/2012 (assessment years 2004-05 and 2005-06) and IT(SS)A No.59, 61 and 62/Kol/2012 (assessment years 2006-07, 2007-08 and 2008-09) [Tantia Construction Limited v. Deputy Commissioner of Income Tax, Central Circle – XIII, Kolkata] and ITA No.69 to 71/Kol/2013 (assessment years 2006-07 to 2008-09) [Deputy Commissioner of Income Tax, Central Circle – XIII, Kolkata v. Tantia Construction Limited].

4. Both the learned counsel for the parties jointly state that the controversy involved in the present appeal is squarely covered in favour of the assessee and against the revenue, by judgment and order dated 09.09.2022 in ITAT/115/2018 [Principal Commissioner of Income Tax – 4, Kolkata v. M/s. Tantia Construction Limited] passed by this Court and in view thereof, the afore-noted substantial question of law deserves to be answered in favour of the assessee and against the revenue and the present appeal deserves to be dismissed.

5. In view of the aforesaid, the appeal is dismissed and the substantial question of law afore-noted is answered in favour of the assessee and against the revenue.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

S. Kumar