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

ITAT/31/2024
IA No: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX 5, KOLKATA
VS.
SHRI SANJAY MEHTA

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : 11th March, 2024

Appearance :
Mr. Prithu Dudhoria, Adv.
…for appellant
Mr. Avra Mazumder, Adv.
Ms. Alisha Das, Adv.
Ms. Sarwati Datta Mitra, Adv.
…for respondent

The Court : We have heard Mr. Prithu Dudhoria, learned standing Counsel appearing for the appellant and Mr. Avra Mazumder, learned Counsel for the respondent.

This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 8th June, 2023 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (Tribunal) in ITA No. 2003/Kol/2019 for the assessment year 2013-14.

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

> Whether on the facts and in the circumstances of the case, the Hon'ble ITAT erred in law in quashing the reopening of the assessment u/s. 147 of the Income Tax Act, 1961 and deleting the consequential additions made by the Assessing Officer even though the Assessing Officer had recorded reason to believe that income of the assessee had escaped assessment for the A.Y. 2013-14 and obtained proper approval of the competent authority which is a prerequisite for reopening assessment u/s 147 and also communicated the same to the assessee and providing opportunity of being heard thereby discharging the onus of natural justice ?

We have heard Mr. Prithu Dudhoria, learned standing Counsel appearing for the appellant and Mr. Avra Mazumder, learned Counsel for the respondent.

After elaborately hearing the learned Advocates for the parties and carefully perusing the materials placed on record, we find that the learned Tribunal on considering the factual position rightly noted that the objections given by the appellant for initiation of re-assessment were not disposed of by the Assessing Officer. The law on the subject has been rightly taken note by the learned Tribunal and we find the matter being entirely factual, no question of law much less substantial question of law arise for consideration.

Accordingly, the appeal is dismissed.

The stay application also stands dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA, J.)

SN.
AR(CR)