OD–15

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

ITAT/37/2024
IA NO: GA/1/2024
PRINCIPAL COMMISSIONER OF
INCOME TAX 2 KOLKATA
VS
M/S ANDREW YULE AND CO LTD.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 23rd February, 2024.

Appearance :
Mr. Tilak Mitra, Adv.
Mr. Prithu Dudhoria, Adv.
….for appellant
Mr. Vikash Singh, Adv.
Ms. Kanchan Jaju, Adv.
…for respondent

The Court :- This appeal filed by the revenue under Section 260A of he Income Tax Act, 1961 (the Act) is directed against the order dated August 3, 2023 passed by the Income Tax Appellate Tribunal "A" Bench, Kolkata (the Tribunal) in 191/Kol/2021 for the assessment year 2007-2008.

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

(a) WHETHER on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was erred in law in deleting the addition of by following its earlier decision on the same issued without appreciating the distinguishable facts of the current year with that of Assessment Year 1990-1991 ?

(b) WHETHER on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was erred in law in deleting the prior period expenses though the claim was made under the same nomenclature whereas items are different to those of Assessment Year 2009-2010 as mentioned in order of Income Tax Appellate Tribunal?

We have heard Mr. Tilak Mitra and Mr. Prithu Dudhoria, learned Counsel appearing for the appellant and Mr. Vikash Singh and Ms. Kanchan Jaju, learned Advocates appearing for the respondent assessee.

The learned Tribunal has elaborately discussed the various issues which were raised before it in the appeal filed by the revenue which are as many as seven in number. It has been clearly noted by the learned Tribunal that all the issues have been decided in favour of the assessee in assessee's own case for the subsequent assessment years i.e. for the assessment years subsequent to 2007-2008 which is an year under consideration. The revenue has not been able to establish any distinguishing feature to take a different view in the matter and all the issues appeared to be recording issues which have been held in favour of the assessee and the orders passed by the learned Tribunal for the other assessment years has attained finality. Thus, we find there is no ground to interfere with the order passed by the learned Tribunal.

Accordingly, the appeal filed by the revenue is dismissed and the substantial questions of law are answered against the revenue.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.