OD–10

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

ITAT/50/2024
IA NO: GA/1/2024, GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME
TAX 1 KOLKATA
VS
ALISHAN STEELS PVT LTD

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 19th February, 2024.

Appearance :
Mr. Om Narayan Rai, Adv.
Mr. Amit Sharma, Adv.
…for appellant
Mr. Ramesh Kr. Patodia, Adv.
Ms. Megha Agarwal, Adv.
…for respondent

The Court :- We have heard learned Counsel on either side.

It appears that there is a delay of 1132 days in filing the appeal, though the explanation offered is not fully satisfactory, since this appeal has been filed under Section 260A of the Income Tax Act, we are required to examine as to whether any substantial questions of law arise for consideration. Therefore, we exercise discretion and condone the delay in filing the appeal. The application is allowed.

This appeal filed by the Income Tax Department is directed against the order dated 18.3.2020 passed by the Income Tax Appellate Tribunal B Bench, Kolkata in ITA No. 2244/Kol/2017 for the assessment year 2012-13. The revenue has raised the following substantial question of law for consideration :-

"i) Whether the Hon'ble Tribunal has substantially erred in law in upholding the decision of the Learned CIT (Appeals)-9, Kolkata thereby deleting the addition of Rs.6,00,00,000/- under Section 68 of the Income Tax Act, 1961 as unexplained cash credit in the form of share capital and share premium only on the ground that no cash or cheque was actually received by the respondent assessee and the purchase of share assets and allotment of share by the assessee was under barter system ?

After we have elaborately heard the learned Advocates for the parties we have no hesitation to hold that substantial question of law raised in this appeal has to be answered against the appellant/revenuer in the light of the decision of this Court in ITAT/187/2023 dated 17.11.2023 in the case of *ITAT/187/2023 PRINCIPAL COMMISSIONER OF INCOME TAX 1,KOLKATA VS. M/S ABHIJEET ENTERPRISE LTD.*

Thus, following the decision the appeal filed by the revenue is dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.