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

ITAT/56/2024
IA NO: GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX, ASANSOL
VS.
EASTERN COALFIELDS LTD.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 15th May, 2024

Appearance :
Mr. Amit Sharma, Adv.
...for Appellant

Mr. Sanjay Dixit, Adv.
Mr. Rajeev Kumar Agarwal, Adv.
...for respondent-ECL

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 5th January, 2023 passed by the Income Tax Appellant Tribunal, "B" Bench, Kolkata (Tribunal) in ITA No.252/Kol/2022, for the assessment year 2016-17.

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

- i) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in quashing the order under Section 263 of the Income Tax Act, 1961 when it is apparent from the records that the

assessment order is erroneous and prejudicial to the interest of the Revenue in as much as the same had been passed by the assessing officer without making due and proper enquiry and without verification of the aspect of MAT credit and provision for doubtful debts ?

- ii) Whether the Learned Income Tax has substantially erred in law in quashing the order passed under Section 263 of the Income Tax Act, 1961 in view of the fact that the said revisionary order was passed on account of wrong and excess credit brought forward MAT to the tune of Rs.147,76,76,957/- and on account of the provisions made on account of doubtful debts amounting to Rs.6,05,42,000/- which was required to be added in computation of income of the assessee company ?
- iii) Whether the Learned Income Tax has substantially erred in law in quashing the order passed under Section 263 of the Income Tax Act, 1961 despite the fact that the assessment order so passed was erroneous in so far as it was prejudicial to the interest of Revenue ?

We have heard Mr. Amit Sharma, learned standing counsel appearing for the appellant/revenue and Mr. Sanjay Dixit, learned counsel for the respondent-ECL.

So far as the first and second questions of law are concerned, though the learned Tribunal had rejected the contention of the revenue on the ground that the MAT credit which was claimed by the assessee has been determined in the proper manner in the assessment order under Section 143(3) of the Act and

there is nothing brought on record to show that such assessment framed is either erroneous or prejudicial to the interest of the revenue.

We need to take note of the legal issue on this aspect. On 2nd March, 2022 a notice under Section 263 was issued by the Principal Commissioner of Income Tax, Asansol (PCIT) where the first issue is with regard to excess set off of MAT credit. The assessee submitted their reply dated 8th March, 2022 stating that the additions which have been made by the Assessing Officer vide order made under Section 143(3) of the Act for the assessment years 2015-16 and 2016-17 are pending in appeal before the Commissioner of Income Tax (Appeals) [CIT(A)] and have not attained finality and therefore the computation of the available MAT credit has also not attained finality. It was further submitted by the assessee that the excess credit, if any, can be corrected at any time as per the provisions of Section 115JAA(6) when the assessment for both the parties attained finality. Subsequently, another notice was issued by the PCIT on 11th March, 2022 with regard to short disallowance of provisions to an extent of Rs.6.05 Crore. The assessee filed their response through the ITBA portal on 17th March, 2022 explaining with documentary evidence that there is no short disallowance provision as alleged. Since the matter pertaining to the MAT credit is yet to attain finality, the assessee was right in pointing out that if any correction is required, it can be done at any time as statutorily provided after the assessments which are pending before the CIT(A) is allowed.

Thus, while dismissing the appeal filed by the revenue on the aforesaid ground, we affirm the ultimate decision of the Tribunal on this ground and not on the ground which was decided by the Tribunal.

The third question of law pertains to disallowance towards doubtful debts. Learned Counsel for the respondent has filed paper book which was filed before the Tribunal which contains all the documents which were examined by the Tribunal to arrive at the factual decision. The Tribunal has gone through the calculations and has recorded that there is no mistake in the assessment order. The PCIT had made an observation that the assessee has not responded to the show cause notice which is demonstrated before us to be factually incorrect as reply dated 16th March, 2022 was given which was uploaded on 17th March, 2022. In any event, the facts have been examined and found to be not an erroneous exercise done by the Assessing Officer and therefore, we do not find any substantial question of law arising for consideration in this appeal.

For the above reasons, the appeal is dismissed and the questions of law no.(i) and (ii) are answered in the above terms and the third issue raised does not qualify to be a substantial question of law.

The stay application IA NO: GA/2/2024 is closed.

(T.S. SIVAGNANAM, C.J.)

(HIRANMAY BHATTACHARYYA, J.)