OD–21

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

ITAT/71/2024
IA No: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX – (CENTRAL)-2, KOLKATA
VS.
M/S. LAL BABA SEAMLESS TUBES PVT. LTD.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 26th April, 2024

Appearance :
Mr. Tilak Mitra, Adv.
...for appellant

Mr. Rajarshi Chatterjee, Adv.
Mr. Anurag Roy, Adv.
...for respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata, dated 21st October, 2022, passed in ITA No. 2641/Kol/2019 for the assessment year 2012-13.

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

i) Whether on the facts and circumstances of the case, the Learned Tribunal has committed substantial error in law by ignoring the fact of creditworthiness of the investor companies as well as genuineness of the transaction was not established by the assessee ?

ii) Whether on the facts and circumstances of the case the Ld Tribunal has erred in not appreciating the fact that the assessee failed to produce applicant/investors companies for share allotment for cross examination and thus failed to prove the creditworthiness and genuineness of the share allotment ?

We have elaborately heard Mr. Tilak Mitra, learned standing Counsel appearing for the appellant/revenue and Mr. Rajarshi Chatterjee, learned Counsel for the respondent/assessee.

The matter arises under Section 68 of the Act. The Commissioner of Income Tax (Appeal) –14, Kolkata [CIT(A)] had affirmed the order passed by the Assessing Officer under Section 143(3) of the Act dated 3rd March, 2015. Challenging the same, appeal was filed by the assessee.

We find the learned Tribunal has done an elaborate exercise to examine the factual position as well as the documents which were filed by the assessee in the form of a paper book. Learned Tribunal records the finding of fact that the assessee has established source of source, even though it was not required for the assessment year under consideration. The documents which were called for by the Assessing Officer were admittedly produced before the Assessing Officer though the investors or director appeared in person. Thus, on appreciation of the factual position the Tribunal has granted the relief. Furthermore, the learned Tribunal has noted that addition has already been made in the hand of the subscribing company and therefore, no further addition is required to be made in the hands of the assessee. The Tribunal also noted that all the companies are active and have invested money from their own resources.

Thus, we find no questions of law, much less substantial questions of law, arising for consideration in this appeal. The appeal is thus dismissed.

The stay application IA No: GA/2/2024 also stands dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

SN/mg.
AR(CR)