OD-16

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

ITAT/91/2024
IA NO: GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL-2), KOLKATA
VS.
SALARPURIA PROPERTIES PVT. LTD.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 28th June, 2024

Appearance :
Mr. Om Narayan Rai, Adv.
Mr. Soumen Bhattacharjee, Adv.
…for appellant

Mr. J.P. Khaitan, Sr. Adv.
Mr. Akhilesh Gupta, Adv.
Ms. Swapna Das, Adv.
…for respondent

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 24th May, 2024, passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata in ITA No. 736/Kol/2022 for the assessment year 2005-06.

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

a) Whether the Learned Tribunal has committed substantial error in law in deleting the addition made by the Assessing Officer under section 69C of the Income Tax Act, 1961 vide order passed under Section 143(3) read with Section 147 of the Income Tax Act, 1961?

b) Whether the Learned Tribunal has committed substantial error in law in only considering the entries of cheque transactions of the seized document and ignoring the entries of cash transactions of the same seized document?

We have elaborately heard Mr. Om Narayan Rai, learned standing counsel, assisted by Mr. Soumen Bhattacharjee, learned standing counsel appearing for the appellant Income Tax department and Mr. J.P. Khaitan, learned senior counsel appearing for the respondent assessee. We have also carefully gone through the order passed by the Commissioner of Income Tax-6, Kolkata [CIT(A)] dated 21st October, 2019, which was affirmed by the learned Tribunal by dismissing the appeal filed by the revenue. Learned CIT(A) has called for a remand and the information sought for was not furnished by the Assessing Officer. On facts, the CIT(A) noted that the documents in the matter was seized from the premises of “Sri Dayanand Pai” and his employees and it nowhere mentions the name of the assessee which is Salarpuria Properties Pvt. Ltd. Therefore, the CIT(A) concluded that reliance on the statement of Sri Dayanand Pai recorded under Section 132(4A) of the Act by the assessing officer prima facie without conducting any enquiry. This aspect of the matter among other things was elaborately considered by the learned Tribunal and on facts the learned Tribunal concurred with the CIT(A) and dismissed the appeal filed by the revenue. The Tribunal re-appreciated the scope of the seized documents, one of which was reproduced in the order passed by the Assessing Officer, wherein there is a mention of "Salarpuria a/c" and the Tribunal held that this could denote any company within the Salarpuria Group and need not necessarily be the assessee, which is Salarpuria Properties Pvt. Ltd.

Thus, we find that the Tribunal on re-appreciation of the factual basis dismissed the appeal filed by the revenue.

Thus, we have no hesitation to hold that no questions of law, much less substantial questions of law, arise for consideration in this appeal. The appeal is thus dismissed.

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

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

(HIRANMAY BHATTACHARYYA, J.)

SN/sg.
AR(CR)