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

ITAT/92/2024
IA NO: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX-5, KOLKATA
VS.
SOMNATH SIRCAR

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 3rd May, 2024

Mr. Amit Sharma, Adv.
... for appellant

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 June 27, 2023 passed by the Income Tax Appellate Tribunal, `C' Bench, Kolkata (Tribunal) in ITA No. 448/2022 for the assessment year 2016-17.

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

i) Whether on the facts and in the circumstances of the case, the order of the Hon'ble ITAT suffers from perversity in restoring the matter to the file of the Assessing Officer directing him to adopt the figure of Rs. 96,00,000/- as the value of FDR in place of Rs. 9,60,00,000/- without completely restoring the matter for de-novo assessment and thereby denying the Department the opportunity to find the complete and true picture ?

ii) Whether on the facts and in the circumstances of the case, the order of the Hon'ble ITAT suffers from perversity in overlooking the fact that contention of assessee to consider the revised balance sheet filed by the assessee in the impugned assessment year was a totally changed one and the authenticity of the figures mentioned therein requires deeper examination in respect of total liabilities, cash in hand and other assets and also on the fact that similar figures were used in the ITR of subsequent assessment year 2017-18 and balance sheet figures were totally omitted in the balance sheet columns of the return in later assessment years i.e. A.Y. 2018-19 to A.Y. 2022-23 which were already available at the time of adjudicating the appeal by the Hon'ble ITAT ?

We have heard Mr. Amit Sharma, learned standing Counsel appearing for the appellant.

After we have elaborately heard the learned Advocates for the parties, we find that the learned Tribunal has examined the factual position and granted relief to the assessee who is an individual. The assessee's case is that he is an individual and does not maintain books of accounts and that the accountant had taken the figure of the last year resulting in repetition and this has caused the mistake. Considering the factual position, the learned Tribunal has directed the Assessing Officer to consider the correct figure as well as consider the revised balance sheet.

We do not find any grounds for which the revenue could be stated to be aggrieved as the direction issued was to adopt the correct figure and also to consider the revised balance sheet, which the Assessing Officer should do in accordance with law.

Thus, we find no questions of law, much less substantial question of law, arising for consideration in this appeal.

The appeal is thus dismissed.

Consequently, the stay application IA No: GA/2/2024 is also dismissed.

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

(HIRANMAY BHATTACHARYYA, J.)

SN/NM
AR(CR)