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

ITAT/95/2024
IA NO: GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-2, KOLKATA
VS.
M/S. INTER GLOBE FINANCE LTD.

BEFORE :

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

Appearance :
Ms. Smita Das De, Adv.
Mr. Prithu Dudhoria, Adv.
…for Appellant

Mr. J.P. Khaitan, Sr. Adv.
Mr. Pratyush Jhunjhunwala, Adv.
Ms. Sreetapa Sinha, 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 dated August 11, 2023 passed by the Income Tax Appellant Tribunal, "B" Bench, Kolkata (Tribunal) in ITA No. 136/Kol/2023 for the assessment year 2010-11.

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

a) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was justified in law in confirming the order of the CIT(A) which deleted the additions to the tune of Rs. 17,73,00,000/- made u/s. 68 of the Act on account of unsubstantiated loan taken from M/s. Satyatej Vyapaar Pvt. Ltd. and Rs. 4,43,250/- made u/s. 69C of the Act as commission for arranging the same ignoring the evidences brought on record by the AO to establish that the identity of the loan creditors, the genuineness of the transaction and creditworthiness could not be satisfactorily proved in this case ?

b) Whether on the facts and in the circumstances of the case and in law the order of the Ld. ITAT suffers from perversity as it ignored the facts brought on records that spot enquiry revealed that there was no physical existence of M/s. Satyatej Vyapaar Pvt. Ltd. instead it was occupied by the assessee company alongwith its group companies and that one member of staff Shri Sanjib Das confirmed that no company in the name of M/s. Satyatej Vyapaar Pvt. Ltd. exists, and hence its identity was never proved because the identity/existence of a corporate body is to be judged from its physical existence and not on the basis of legal documents ?

We have heard Ms. Smita Das De, learned standing counsel appearing for the appellant and Mr. J.P. Khaitan, learned senior counsel for the respondent.

The short issue which falls for consideration is whether the learned Tribunal was right in affirming the order passed by the Commissioner of Income Tax (Appeals) [CIT(A)] which deleted the additions made by the Assessing Officer under Section 68 of the Act.

After elaborately hearing the learned Advocates for the parties, we have carefully given our consideration to the findings recorded by the learned Tribunal. The learned Tribunal had noted that the assessee is a NBFC which had availed loans from Satyatej Vyapaar Pvt. Ltd., which is also a NBFC and the assessment for this year under consideration in respect of Satyatej was reopened and a re-assessment order was passed under Section 147 of the Act dated 25th October, 2017 where no addition has been made on account of any cash credits. Apart from that, the learned Tribunal has examined the factual position, in our view, in a threadbare manner and agreed with the conclusion arrived at by the CIT(A). We also note that the order passed by the CIT(A) is a very elaborate order running to 46 pages wherein the entire factual position has been discussed. Apart from noting the law on the subject, we wish to point out that though this is an order passed under the Faceless Appeal Centre, the order has set out elaborate reasons.

Thus, we find no questions of law, much less substantial questions of law, arising for consideration.

Therefore, the appeal fails and stands dismissed.

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

In the order dated 19th April, 2024, the name of Smit Das De, learned Advocate for the appellant, has been missed out. The name shall be included and this order shall form part of the order dated 19th April, 2024.

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

(HIRANMAY BHATTACHARYYA, J.)

SN.
AR(CR)