OD – 13

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Income Tax]

ORIGINAL SIDE

ITAT/105/2024
IA NO: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA
VS
CD EQUIFINANCE PRIVATE LIMITED

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 17th May, 2024

Appearance :
Mr. Om Narayan Rai, Adv.
Mr.Amit Sharma,, Adv.
...for the appellant.

Mr. J.P. Khaitan, Sr. Adv.
Mr. Sanjay Bhowmick, Adv.
..for the 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 1st November, 2022 passed by the Income Tax Appellate Tribunal, Bench – B, Kolkata (the Tribunal) in ITA/164/Kol/2022 for the assessment year 2017-18.

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 setting aside the* *order of the Principal Commissioner of Income Tax-1, Kolkata under Section 263 of the Income Tax Act, 1961 on the ground that the Assessing Officer had examined the transaction referred in the show cause notice on which order under Section 263 of the said Act was passed when no such embargo has been put in the language of the section more so when the order passed by the Assessing Officer does not reveal such fact that the Assessing Officer had examined the transaction referred in the show cause notice and the intention of the legislature was never such so as to render the revenue remediless against erroneous order of the Assessing Officer nor make the revenue suffer a continuous wrong?*

(ii) 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 where the assessee had failed completely to disclose its true and correct income by non-furnishing of details as required under provisions of Clause (a) & (b) of Explanation -2 to Section 263(1) of the Income Tax Act, 1961?"

We have heard Mr.Om Narayan Rai, learned senior standing counsel appearing for the appellant and Mr. J.P. Khaitan, learned senior advocate appearing for the respondent.

The short question which falls for consideration is whether the Tribunal was right in allowing assessee's appeal and setting aside the order of the Principal Commissioner of Income Tax under Section 263 of the Act. We have carefully perused the finding recorded by the Tribunal more particularly in paragraph

13 where the Tribunal has examined all the documents and found that the assessing officer has thoroughly examined all the issues and was on facts satisfied that the assessee's claim to write off was acceptable. The factual finding recorded by the Tribunal could not be dislodged by the revenue in this appeal. Thus, we find no question of law much less substantial question of law arises for consideration.

In the result, the appeal is dismissed. The connected application is also dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

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