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

ITAT/138/2024
IA NO: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA
VS
DOZCO (INDIA) PVT. LTD.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 14th August, 2024.

Appearance :
Mr. Prithu Dudhoria, Adv.
. …for appellant.

Mr. S. M. Surana, Adv.
Mr. Bhaskar Sengupta, Adv. …for respondent.

The Court :- This appeal by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated August 22, 2023 passed by the Income Tax Appellate Tribunal, "A" Bench, Kolkata in ITA/48/KOL/2021 for the assessment year 2012-2013.

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

a. WHETHER on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal is justified in law in allowing the appeal of the assessee without appreciating the purport of Section 153 of the Income Tax Act, 1961 where default date of service has been reflected as April 03, 2015 and the same did not prove that the order was served to the assessee on that date as it was system generated default date ?

We have heard learned Advocates on either side.

The revenue has filed the appeal before the learned tribunal challenging the order passed by the Commissioner of Income Tax [Appeals]-7, Kolkata [CIT(A)] dated 14.9.2020 for the assessment year 2012-13. The CIT(A) by an order dated 14.9.2020 allowed the appeal filed by the assessee challenging the assessment order dated 23.4.2015. The CIT(A) after considering the entire facts in paragraph 4.1 of its order has recorded that the Assessing Officer has not adhered to the statutory provisions of section 153 of the Act in passing the assessment order under section 143[3]. In fact, the CIT(A) had given an opportunity to the Assessing Officer to submit a remand report on the queries which was sought for. However, the Assessing Officer failed to submit a report. Thus, after taking into considering the facts the CIT(A) found that only a computation sheet was served on the assessee on 7.4.2015 along with a part of the assessment order dated 29.3.2015. The assessee filed an affidavit stating that the computation sheet is only a tax computation sheet which is to be served along with the assessment order. On facts, the CIT(A) found that the assessment order has been passed well beyond the date of limitation and it is not a valid order in terms of section 153 of the Act. The correctness of this factual finding was re-examined by the tribunal and after considering the facts affirmed the said finding. The learned tribunal not stopping with that proceeded to consider the merits of the matter and recorded its reasons on facts as to why the CIT(A) was justified in allowing the assessee's appeal.

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

Accordingly, the appeal fails and dismissed. Consequently, the application, GA/2/2024 stands dismissed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

pkd/GH.