ORDER O – 81

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

ITA/33/2021
IA NO: GA/2/2017 (Old No:GA/1852/2017)
PRINCIPAL COMMISSIONER OF INCOME TAX, LTU
VS
UCO BANK

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
THE HON'BLE JUSTICE AJAY KUMAR GUPTA
Date : 2nd July 2024.

Appearance:

Mr. Smarajit Roychowdhury, Advocate
Mr. Soumen Bhattacharjee, Advocate
... for appellant.

Mr. J. P. Khaitan, Senior Advocate
Ms. Swapna Das, Advocate
Mr. Sanjay Bhowmik, Advocate
Mr. Siddharth Das, Advocate
... for respondent.

1. Heard Sri Smarajit Roychowdhury, learned senior standing counsel, assisted by Sri Somen Bhattacharjee, learned junior standing counsel for the appellant and Sri J. P. Khaitan, learned senior advocate for the respondent assessee/bank.

2. Learned counsel for the appellant on instructions of the department and Sri J. P. Khaitan, learned senior advocate, both jointly state that the controversy involved in the present appeal is covered by the judgment of Hon'ble Supreme Court reported in [2022] 447 ITR 193 SC,

a coordinate Bench judgment of this Court reported in [2022] 137 taxmann.com 338 (Calcutta) and another judgment of this Court dated 30.11.2023 in ITA/51/2018 (CIT, L.T.U. v. UCO Bank) and in view thereof, the appeal deserves to be dismissed and substantial questions of law deserve to be answered in favour of the assessee and against the Revenue.

3. Learned counsel for the parties have jointly produced before us an order of this Court dated 30.11.2023 in ITA/51/2018 (CIT, L.T.U. v. UCO Bank), which is reproduced below:-

"The Court : Heard Ms. Smita Das De, learned standing counsel for the appellant/Income Tax Department and Mr. J. P. Khaitan, learned senior counsel assisted by Mr. Sanjay Bhowmik, learned Advocate for the respondent/assessee.

This appeal was admitted on 11th May, 2018 on the following substantial question of law:

"Whether a nationalized banking company would be subject to the requirements of Section 115JB of the Income Tax Act, 1961?"

Both the learned counsel for the parties jointly submit that substantial question of law as above-noted is concluded against the revenue by a judgment of Hon'ble Supreme Court in ***Deputy Commissioner of Income Tax vs. Kerala State Electricity Board*** *reported in* ***[2022]447 ITR 193 (SC)*** *and also by a Division Bench judgment of this Court in* ***Principal Commissioner of Income Tax vs. Damodar Valley Corporation*** *reported in* ***[2022]137 taxmann.com 338 (Calcutta)****.*

They jointly submit that the question needs to be answered in favour of the assessee and against the revenue and the appeal deserves to be dismissed.

In view of the aforesaid, the substantial question of law above-noted is answered in favour of the assessee and against the revenue.

The appeal (ITA/51/2018) is, thus, dismissed."

4. The aforequoted order is inter parties.

5. In view of the statements made by learned counsel for the parties as afore-noted and following the aforesaid judgments and orders, the present appeal is **dismissed**. The substantial questions of law are answered in favour of the assessee and against the Revenue.

(SURYA PRAKASH KESARWANI, J.)

(AJAY KUMAR GUPTA, J.)

S. Kumar