ORDER OD – 21

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

ITAT/191/2024
IA NO: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX - 1, KOLKATA
VS.
M/S. INDUS REALTY PVT. LTD.

BEFORE:

THE HON'BLE THE CHIEF JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 8th November 2024.

APPEARANCE:

Ms. Smita Das De, Advocate
Mr. Prithu Dudheria, Advocate
... for appellant.

Mr. Abhratosh Majumdar, Senior Advocate
Ms. Swapna Das, Advocate
Mr. Siddharth Das, Advocate
... for respondent.

The Court:- This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated November 08, 2023 passed by the Income Tax Appellate Tribunal 'A' Bench, Kolkata (the Tribunal) in ITA No.666/Kol/2023 for the assessment year 2012-13.

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

(a) *Whether on the facts and circumstances of the case and in law, the Learned Income Tax Appellate Tribunal has committed substantial error by not considering the addition made by the Assessing Officer on account of share capital / share premium of Rs.3,00,00,000/- made u/s 68 of the IT Act, 1961, without considering the fact that there is accommodation entry in the instant case?*

(b) Whether on the facts and circumstances of the case and in law, the Learned Income Tax Appellate Tribunal has committed error by not considering the judgment of the Hon'ble Division Bench, High Court at Calcutta dated April 23, 2024 in ITAT/67/2024 (IA No: GA/2/2024) in the case of The Principal Commissioner of Income Tax, (Central)-2, Kolkata Vs. M/s BST Infratech Limited?

We have heard Ms. Smita Das De, learned senior standing counsel assisted by Mr. Prithu Dudheria, learned advocate for the appellant.

The revenue was in appeal before the Learned Tribunal challenging the order passed by the Commissioner of Income Tax (Appeals), NFAC, Delhi dated 25th March 2023 by which the assessee's appeal was allowed and the addition made under Section 68 of the Act was set aside. The Learned Tribunal has extensively quoted the factual findings recorded by the CIT(A) upon appreciation of the documents which were placed by the assessee as well as the group companies. The Tribunal after referring to the finding recorded by CIT(A) has on its part re-examined the factual position and found that no case has been made out for addition under Section 68 of the Act.

Thus we find there is no substantial question of law arising for consideration in this appeal.

The appeal is dismissed and the connected application stands closed.

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

(HIRANMAY BHATTACHARYYA, J.)

SM/S. Kumar