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ITA/86/2012

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (Income Tax)
ORIGINAL SIDE

COMMISSIONER OF INCOME TAX, CENTRAL-1

-Versus-

M/S. CUBE TRAFIN PRIVATE LIMITED

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 13th February, 2024

Appearance:
Ms. Smita Das De, Adv.
...for the appellant.

1. Heard Ms. Smita Das De, learned standing counsel for the appellant/department. None appears for the respondent/assessee.

2. This appeal was admitted by this Court by an order dated 18.07.2012 on the following substantial question of law:

> *"Whether the Learned Tribunal came to fact finding of confirming the order of CIT (Appeals) without relying on any acceptable materials, in other words perverse ?"*

3. We have perused the impugned order dated 24.02.2012 passed in ITA Nos.312-313 (Kol) of 2011 for the assessment years 2006-07 and 2007-08 by the Income Tax Appellate Tribunal, Bench- “A”, Kolkata. We find that the addition made by the Assessing Officer invoking Section 69 of the Act and determined commission on productive basis, was set aside by the CIT(A) by a detailed order. We have also perused the order of the CIT(A) and found that the CIT(A) has well discussed all the relevant facts and evidences. The only ground on which the addition invoking Section 69 of the Act, 1961 was made by the Assessing Officer, was the statement of one of the Directors of the respondent which was retracted. The retraction of the statements was found by the CIT(A) and the Tribunal to be correct and valid. There was no other evidence to justify the additions made. Consequently, the CIT(A) deleted the addition which was upheld by the impugned order passed by the ITAT. While passing the impugned order, the ITAT has also followed the order passed by the ITAT in the case of M/s. Ankit Finvest Pvt. Ltd. on similar set of facts. Learned counsel for the appellant has informed that the income tax appeal No.13 of 2011 filed by the revenue before this Court was dismissed by this Court by order dated 19.12.2023.

4. No perversity could be pointed out by learned counsel for the appellant.

5. In view of the aforesaid, we do not find any merit in the appeal. Consequently, **the appeal (ITA/86/2012) is dismissed**. The substantial question of law as framed above is answered accordingly.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

As.