OD – 4

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

ORIGINAL SIDE

ITA/24/2022
PRINCIPAL COMMISSIONER OF INCOME TAX,
KOLKATA – 4, KOLKATA
VS
M/S. JCT LIMITED

BEFORE :
THE HON'BLE JUSTICE SURYA PRAKASH KESARWANI
And
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
Date : 14th May, 2024

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

Sri Akhilesh Kumar Gupta, Adv.
Smt. Akshara Shukla, Adv.
Sri Aritra Nag, Adv.
...for the respondent.

1. Heard Smt.Smita Das De, learned senior standing counsel for the appellant and Sri Akhilesh Gupta, learned counsel for the respondent.

2. This appeal was admitted by order dated 15.2.2022 on the following substantial questions of law :

"*(i) Whether on the facts and in the circumstances of the case the Learned Tribunal has erred in law in allowing entire payment of interest under section 36(1)(iii) of Income Tax Act, 1961 without referring* *the matter back to the Assessing Officer for verification of exact sources of investment?*

(ii) Whether on the facts and in the circumstances of the case the Learned Tribunal has erred in law in allowing entire payment of interest under section 36(1)(iii) of Income Tax Act, 1961 despite a part of it being attributable to interest free loans/advances to subsidiaries/sister concerns for non-business purpose?"

3. This appeal filed by the revenue relates to assessment years 2004-05, 2006-07, 2007-08 and 2008-09 arising out of an order of the Income Tax Appellate Tribunal, "A" Bench, Kolkata dated 19.10.2016 passed in ITA Nos. 1106 to 1109/Kol/13 (DCIT, Circle – XI Vs. JCT Limited). The ITAT has passed the impugned order following its earlier order inter parties for the assessment year 1994-95 in ITA/1135/Kol/2003 which has been affirmed by judgment and order dated 19.12.2023 in ITA/19/2013 (Commissioner of Income Tax, Kolkata – IV Vs. JCT Limited) passed by this Court. The impugned order has been passed by the ITAT following its aforesaid decision in ITA/1135/Kol/2003.

4. Both the learned counsel for the parties jointly agree that the controversy involved on the above noted two substantial questions of law is squarely covered by judgment and order dated 19.12.2023 in ITA/19/2013 (Commissioner of Income Tax, Kolkata – IV Vs. JCT

Limited) passed by this Court and in view thereof, both the substantial questions of law deserve to be answered in favour of the assessee and against the revenue and the appeal deserves to be dismissed.

5. In view of the aforesaid, the appeal is dismissed. Both the substantial questions of law are answered in favour of the assessee and against the revenue.

(SURYA PRAKASH KESARWANI, J.)

(RAJARSHI BHARADWAJ, J.)

Sd/