O-62 IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

ITA/90/2012

IN THE MATTER OF: COMMISSIONER OF INCOME TAX, CENTRAL-I
VS
M/S NILHAT PROMOTERS AND FISCAL PRIVATE LIMITED

BEFORE:
HON'BLE JUSTICE SURYA PRAKASH KESARWANI
AND
HON'BLE JUSTICE RAI CHATTOPADHYAY
Date : 22nd January, 2024.

Appearance:
Mr. Om Narayan Rai, Adv.
Mr. Soumen Bhattacharyya, Adv.
... for the appellant.

1. Heard Mr. Om Narayan Rai, learned Senior standing Counsel for the appellant. None appears for the respondent.
2. This appeal was admitted by order dated 23.7.2012 which is as under:-

"On identical point of law on 22nd December, 2010 we admit an appeal being ITA 13 of 2011.

We, therefore, after hearing Mr. Nizamuddin and going though the impugned judgement and order of the learned Tribunal admit the appeal on the following substantial question of law in relation to Assessment Years 2006-07 and 2007-08:-

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

It is appropriate to record that the judgment and order of the learned Tribunal on which reliance has been placed while rendering this judgment, has been appealed against on the aforesaid point.

Notice be issued by the department upon the respondent.

Let requisite number of paper books be filed within eight weeks from date.

The application is disposed of.

All parties shall act a xerox signed copy of this order on usual undertakings."

3. ITA No. 13 of 2011(Commissioner of Income Tax, Central-I, Kolkata Vs. Ankita Finvest Pvt. Ltd.) as recorded in the above quoted order dated 23.7.2012, was dismissed by this Court by order dated 19.12.2023 and the identical substantial question of law framed in that appeal was answered against the revenue and in favour of the assessee.
4. We have also perused the impugned order of the Income Tax Appellate Tribunal and we find no perversity in it.

5. For all the reasons aforesaid, this appeal is dismissed and the substantial question of law is answered against the revenue and in favour of the assessee.

(SURYA PRAKASH KESARWANI, J.)

(RAI CHATTOPADHYAY, J.)

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