OD–13

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

ITAT/256/2023
IA No: GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL-2, NEW DELHI
VS.
M/S. AVANTHA REALTY LTD.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 3rd May, 2024

Ms. Smita Das De, Adv.
Mr. Prithu Dudhoria, Adv.
…for appellant
Mr. J.P. Khaitan, Sr. Adv.
Mr. Sanjay Bhowmik, Adv.
Mr. Navin Mittal, Adv.
…for respondent

The Court : This appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated October 25, 2021 passed by the Income Tax Appellate Tribunal, Delhi Bench "A", New Delhi in ITA No. 4360/Del/2016 for the assessment year 2010-11.

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

"Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law in upholding the decision of CIT(A) in allowing the interest on unpaid amount to the seller is akin to interest on borrowed capital and the assessee is eligible for deduction under Section 24(b) of the Act, 1961 ?"

We have heard Ms. Smita Das De, learned standing Counsel for the appellant and Mr. J.P. Khaitan, learned senior Counsel for the respondent.

Learned Tribunal while dismissing the revenue's appeal took note of the decision of the Division Bench of this Court in Commissioner of Income-Tax vs. R.P. Goenka And J.P. Goenka, 1998(233) ITR 123 and held that the unpaid price is to be treated as borrowed capital within the meaning of Section 24(b) of the Act. Not stopping that, the learned Tribunal examined the facts of the case and the provisions of law and held that the interest paid by the assessee to Ballarpur Industries Limited is an allowable deduction as it amounts to interest on capital borrowed.

Thus, we find no substantial questions of law arising for consideration.

The appeal is thus dismissed.

The stay application IA No: GA/2/2023 is also dismissed.

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

(HIRANMAY BHATTACHARYYA, J.)

SN/NM.
AR(CR)