OD-23

ITAT/260/2023
IA No.GA/2/2023

IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Income Tax)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX 1, KOLKATA
Vs
M/S. SHREE PARASNATH RE-ROLLING MILLS LTD.

BEFORE:
The Hon'ble JUSTICE T.S. SIVAGNANAM

The Hon'ble JUSTICE SUPRATIM BHATTACHARYA

Date : 31st January, 2024

*Appearance:*
*Mr. Om Narayan Rai, Adv.*
*Mr. Amit Sharma, Adv.*
*...for the appellant.*

*Mr. Subash Agarwal, Adv.*
*Mr. Brijesh Kumar Singh, Adv.*
*Mr. Nitish Bhandary, Adv.*
*..for the 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 17th November, 2022 passed by the Income Tax Appellate Tribunal, “B” Bench, Kolkata (the Tribunal) in ITA No.2470/Kol/2019 for the assessment year 2012-13.

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

*i)* *Whether on the facts and circumstances of the case and in law, the Learned Tribunal has substantially erred in deleting the addition under Section 68 of the Income Tax Act, 1961 amounting to Rs.20,20,00,000/- on the basis of submission of the respondent assessee without going into the actual facts and materials of the case?*

*ii)* *Whether the Learned Tribunal has committed substantial error in law in failing to appreciate that the transactions of share application cannot be said to be genuine transactions when admittedly the respondent assessee and the three investor companies are group companies having cross shareholding ?*

*iii)* *Whether the Learned Tribunal has committed substantial error in law in failing to appreciate that if at all the respondent assessee required funds for expansion of its business or funding projects undertaken by it, it could have done so by selling and/or offloading its holding/ stake in any of aforesaid group companies in favour of any outside investor and would not have asked money from its group company wherein the respondent assessee itself had made investment ?*

We have heard Mr. Om Narayan Rai, learned standing counsel along with Mr. Amit Sharma, learned standing counsel for the appellant and Mr. Subash Agarwal, learned standing counsel appearing for the respondent assessee.

After elaborately hearing learned Advocates for the parties and carefully considering the entire materials placed on record, we find that both the Commissioner of Income Tax (Appeals)-17, Kolkata and the learned Tribunal have examined the factual aspect in a detailed manner and found that the investor companies are admittedly group companies with common directors having cross shareholdings. On being satisfied with the genuineness of the transaction and identity and creditworthiness of the investors, relief was granted by the CIT(A) in favour of the assessee which order has been affirmed by the learned Tribunal after re-appreciating the facts.

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

Accordingly, the appeal fails and is dismissed.

Consequently, the application stands closed.

(T.S. SIVAGNANAM, J.)

(SUPRATIM BHATTACHARYA, J.)

sg./bp.