O - 60

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

ORIGINAL SIDE

ITAT/264/2023
IA NO.GA/1/2023

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL - 1, KOLKATA
-Versus-

M/S. PRABHU POLY PIPES LTD.

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 22nd January, 2024

Appearance :
Mr.Amit Sharma, Adv.
..for the appellant.

Mr.Pranit Bag, Adv.
Mr. Pradeep Jewrajka, Adv.
Ms. Pooja Jewrajka, 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 23rd February, 2023 passed by the Income Tax Appellate Tribunal, A-Bench, Kolkata (the Tribunal) in ITA No.1126/Kol/2019 for the assessment year 2014-15.

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

"*(i) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in setting aside the order of the Principal Commissioner of Income Tax,* *Central – 1, Kolkata under Section 263 of the Income Tax Act, 1961?*

(ii) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in ignoring that the assessment order passed by the Assessing Officer is erroneous and prejudicial to the interest of the revenue as the Assessing Officer did not enquire about the creditworthiness and identity of the loan providers and genuineness of transactions in respect of unsecured loans?"

We have heard Mr. Amit Sharma, learned standing counsel appearing for the appellant/revenue and Mr. Pranit Bag, learned advocate appearing for the respondent/assessee.

The short issue involved in the instant case is whether the Principal Commissioner of Income Tax, Central – 1, Kolkata [PCIT] was justified in invoking his power under Section 263 of the Act. The learned Tribunal upon going through the facts has recorded the following finding :

"11. We notice that ld. AO has called for all the details of the unsecured loans taken by the assessee during the year and has also referred to the seized material in the notice issued u/s 142(1) of the Act and all necessary replies along with the evidences have been filed during the assessment proceedings. It is not the case of no enquiry rather it is a case where ld. AO has raised necessary queries with regard to the issue under consideration and on being satisfied with such details and accepting the identity, creditworthiness and genuineness of the cash creditors took a plausible view

as provided under the Act and completed the assessment proceedings u/s 153A r.w.s. 143(3) of the Act. Ld. Pr. CIT in the impugned order has only give general observation that ld. AO has not conducted the necessary enquiry but in the impugned proceedings has not given any specific finding as to what was the information which ld. AO has not called fro and also has not given any comment on such information which ld. Pr. Cit was required to call for during the course of revisionary proceedings before holding the assessment order in question as erroneous and prejudicial to the interests of the Revenue. We, therefore, are of the considered view that since sufficient enquiry has been documented regarding the unsecured loans taken by the assessee during the year and details submissions have been filed by the assessee, we find that the assessment order passed u/s 153A r.w.s 143(3) of the Act dated 26.12.2017 is neither erroneous nor prejudicial to the interests of the Revenue. We, thus, do not concur with the finding of ld. Pr. CIT and quash the impugned order and restore the assessment order dated 26.12.2017.”

From the above factual finding it is seen that the learned Tribunal was satisfied that it was not a case where the assessing officer has not conducted any enquiry. The Tribunal on facts found that the assessing officer has raised necessary queries with regard to the issue under consideration and was fully satisfied with the details furnished by the assessee and also accepted the identity, creditworthiness and genuineness of the cash creditors and took a plausible view as provided under the Act and completed the assessment under

Section 143A read with Section 143(3) of the Act. The learned Tribunal also faulted the PCIT for making a general observation stating that the assessing officer has not conducted necessary enquiry and failed to give any specific finding as to what was the information that the assessing officer had not called for and has also not given any comment on such information which the PCIT was required to call for during the course of revision proceedings before holding the assessment order in question as being erroneous and prejudicial to the interest of the revenue. Thus, we find that no question of law much less substantial question of law arises for consideration.

Accordingly, the appeal fails and is dismissed. The connected application stands closed.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(HIRANMAY BHATTACHARYYA, J.)

S.Das/