OD – 44

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

ORIGINAL SIDE

ITAT/277/2023
IA NO: GA/2/2023

PRINCIPAL COMMISSIONER OF INCOME TAX, CENTRAL 1 KOLKATA
VS
AMRIT FEEDS LTD

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 1st May, 2024

Appearance :
Ms. Smita Das De, Adv.
Mr. Prithu Dudheria, Adv.
...for the appellant.

Mr. K.R. Thaker, 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 28th February, 2023 passed by the Income Tax Appellate Tribunal, Bench-C, Kolkata (the Tribunal) in ITA Nos.2307/Kol/2016 & ITA No.1863/Kol/2018 & ITA No.1718/Kol/2019 for the assessment years 2013-14, 2014-15 and 2015-16 respectively.

The revenue has raised the following substantial question of law :

"*Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in law to dismiss the appeal of the Revenue without considering the merit of the case but fully relying upon the issue that order for liquidation under Section 33 of the IBC, 2016 has been passed by the Learned NCLT, Kolkata Bench?*"

We have heard Ms. Smita Das De, learned senior standing counsel appearing for the appellant and Mr. K.R. Thaker, learned counsel appearing for the respondent.

The learned Tribunal has taken note of the fact that the liquidation proceedings have commenced as per the order passed by the NCLT, Kolkata and at the time of appointment of the Official Liquidator, the assessee company became defunct and the Official Liquidator stepped into the shoes of the assessee. Further, the Tribunal noted that even during the moratorium period specified under Section 14(1)(a) of the Insolvency and Bankruptcy Code, there has been no representation of the matter on behalf of the assessee. After taking note of the orders passed by the NCLT and also noting other decisions of the co-ordinate Bench of the Tribunal, the Tribunal in paragraph 7 of the impugned order, rightly came to the conclusion that the appeal filed by the revenue has to be dismissed so also the cross-objection filed by the assessee with liberty to both the assesse and the Official Liqudiator to recall the order by filing appropriate application within the permissible period of limitation as and when occasion warrants. Thus, we find no grounds have been made out to interfere with the order passed by the learned Tribunal and no substantial question of law arises for consideration.

In the result, the appeal is dismissed. Consequently, the connected application is also dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

S.Das
AR(CR)