

OD - 6

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

ORIGINAL SIDE

ITAT/281/2023
IA NO.GA/1/2023
PRINCIPAL COMMISSIONER OF
INCOME TAX -1, KOLKATA

-Versus-

ARUNAVA BHATTACHARJEE

BEFORE :

THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM

And

THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

Date : 15th January, 2024

Appearance :

*Mr. Soumen Bhattacharjee, Adv.
...for the appellant.*

*Mr.S.M. Surana, 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 9th June, 2023 passed by the Income Tax Appellate Tribunal, Bench - B, Kolkata (the Tribunal) in ITA/203/Kol/2022 for the assessment year 2016-17.

The revenue raised the following substantial questions of law :

"a) *Whether the Learned Tribunal has committed substantial error in law in allowing the assessee's claim of deduction under Section 54F of the Income Tax Act, 1961 wherein the assessee is owning more than one residential house, other than new asset on the date of transfer of the original asset and the same is violating the provisions as laid down under Section 54F of the Act.*

b) Whether the Learned Tribunal has committed substantial error in law in allowing the assessee's claim of deduction under Section 54F of the Income Tax Act, 1961 wherein the assessee has transferred a guest house which is not a residential house property and the same is violating the provisions as laid down under Section 54 of the Act".

We have heard Mr.Soumen Bhattacharjee, learned standing counsel for the appellant and Mr. S.M. Surana, learned senior counsel for the respondent.

The assessee had challenged the order passed by the Principal Commissioner of Income Tax, Kolkata under Section 263 of the Act dated 1st February, 2021. The PCIT has expressed its powers under Section 263 holding that the assessing officer had passed the assessment order dated 28th December, 2018 under Section 143(3) of the Act by allowing deduction under Section 54F of the Act which results under assessment of the income from the assessment year 2016-17. The assessee challenged the order passed by the PCIT before the Tribunal contending that the assessee had made a claim of deduction under Section 54 and mere mentioning of Section 54F along with 54 for the assessment order will not take away the assessee's right to entitle for deduction under Section 54 of the Act. The Tribunal after noting the facts had found that mere mentioning of Section 54/54F for the assessment order does not mean that the assessee was not entitled to deduction under Section 54. Thus, the Tribunal was satisfied that the assessing officer had rightly granted benefit under Section 54

of the Act. Thus, we find no question of law much less substantial of law arises for consideration.

Hence, the appeal fails and the same is dismissed.

The connected application stands closed.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(HIRANMAY BHATTACHARYYA, J.)