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

ORIGINAL SIDE

ITAT/283/2023
IA NO: GA/2/2023

PRINCIPAL COMMISSIONER OF INCOME TAX 13 KOLKATA
VS
MANISH PARASRAMPURIA

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE SUPRATIM BHATTACHARYA
Date : 31st January, 2024

Appearance :
Mr.Tilak Mitra, Adv.
Mr.Soumen Bhattacharjee, Adv.
...for the appellant.

Mr.Govind Jephalia, Adv.
Mr.Rajshee Chatterjee, 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.654/Kol/2022 for the assessment year 2015-16.

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

"Whether the Learned Tribunal has committed substantial error in law in not considering that the reassessment has been done by the A.O. in view of the information received from investigation Wing, Mumbai pertaining to AMM Ltd & EML shares which is a Penny Stock?"

We have heard Mr. Tilak Mitra, learned senior standing counsel assisted by Mr. Soumen Bhattacharjee, learned senior standing counsel appearing for the appellant/revenue and Mr. Rajshee Chatterjee, learned counsel appearing for the respondent/assessee.

The short issue which falls for consideration in the instant case is whether the reopening of the assessment done by the assessing officer under Section 148 of the Act was justified. The learned Tribunal has examined the factual position and found that the assessee has demonstrated from materials placed on record that the income has already been applied in the original return subject to scrutiny assessment under Section 143(3) of the Act on which taxes at special rate under Section 111A of the Act have been paid. The learned counsel appearing for the respondent/assessee has produced the copy of the paper book filed before the Tribunal and we find that the share transaction in respect of the said company, namely, AMML was reflected in the original return and was considered by the assessing officer and the factual conclusion arrived at by the learned Tribunal stating that the reopening was change of opinion cannot be faulted. For the above reasons, we find no substantial question of law arises for consideration.

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

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(SUPRATIM BHATTACHARYA, J.)

S.Das/