OD – 30

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

ORIGINAL SIDE

ITAT/285/2023
IA NO: GA/2/2023

PRINCIPAL COMMISSIONER OF INCOME TAX 1 KOLKATA
VS
M/S. AJANTA MERCHANTS PVT. LTD.

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

<u>*Appearance :*</u>
Mr.Om Narayan Rai, Adv.
Mr.Prithu Dudheria, Adv.
...for the appellant.

Mr.S.M. Surana, Adv.
Mr.Bhaskar Sengupta, 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 March, 2023 passed by the Income Tax Appellate Tribunal, C-Bench, Kolkata (the Tribunal) in ITA No.608/Kol/2022 for the assessment year 2011-12.

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

"Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal wa erred in deleting the addition of Rs.2,87,43,923/- under Section 69C of the Income Tax Act, 1961 without considering the fact that the assessee failed to

furnish any documentary evidences in support of its claim of trading of shares?

After elaborately hearing the learned advocates for the parties and carefully perusing the materials placed before us including the paper book which was filed by the assessee before the learned Tribunal, we find that the learned Tribunal has examined the factual position and found that the deposits in the bank accounts are apparent from the receipts as shown in the books of accounts which were either on account of rent receipt or interest on FDR, sale of shares and reduction in loan and advances. The learned Tribunal on facts found that the assessee has fully explained the deposits in the bank accounts and also pointed that the Commissioner of Income Tax (Appeals) has overlooked the documents, statements and the explanation offered by the assessee. Thus, we find that no question of law much less 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/