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ORDER SHEET
ITAT/12/2025
IA NO: GA/1/2025
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX-2, KOLKATA
VS
M/S INDOVISION COMMODITIES LIMITED

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND
The Hon'ble JUSTICE UDAY KUMAR
Date: 1st December, 2025.

Appearance:
Mr. Soumen Bhattacharjee, Adv.
Mr. Ankan Das, Adv.
...for the appellant

Mr. S.M.Surana, Adv.
Mr. Pratyush Jhunjhunwala, Adv.
Ms. Sruti Datta, Adv.
Ms. Sakshi Singhi, Adv.
...for the respondent

The Court: Learned counsel appearing for the appellant/revenue raises the following questions of law:

> "I. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in quashing the order without going through the section 124(3)(a) of the Income Tax Act, 1961 which precludes the assessee from questioning Jurisdiction of the

assessing officer, if assessee does not do so within one month of receipt of notice under section 143(2) of the Income Tax Act, 1961.

II. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in quashing the assessment order without considering the judgment dated 1 May, 2023 of the Hon'ble Apex Court in the case of DCIT (Exemptions) Vs. Kalinga Institute of Industrial Technology 151 taxmann.com 434(SC)(2023) and also ignoring the decision of ITAT, Raipur Bench's decision in the case of ITO Vs. Shree Banke Bihari Infracon (P) Ltd., (2024) 163 taxmann.com 344 (Raipur-Trib).

III. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in deleting the additions made under section 68 of the Income Tax Act, 1961 to the tune of Rs.1,01,18,726/- without going through the merits of the case that there is no explanation available in any way at the assessment stage, hence, deposit of funds remained unexplained. The only economic rationale behind such transaction is to provide accommodation entries for bringing back the unaccounted money/fund of the clients to their regular books of accounts."

However, after perusing the documents and hearing the appellant, it is seen that it is a settled law that for carrying out an assessment proceedings under Section 143(3) of the Income Tax Act, 1961, the statutory requirement of serving a valid notice under Section 143(2) of the Act is a must and in absence of which the subsequent proceedings become invalid. The tribunal has rightly considered that the notice issued under Section 143(2) of the Act has not been issued by the officer with correct jurisdiction and as such, has dismissed the appeal.

We do not find any substantial questions of law raised by the revenue and thus, the appeal is dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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