OD – 9

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

ORIGINAL SIDE

ITAT/14/2025
IA NO: GA/1/2025, GA/2/2025
PRINCIPAL COMMISSIONER OF INCOME TAX
CENTRAL 1, KOLKATA
VS
NAMOKAR BUILDERS PVT LTD

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 5th March, 2025

Appearance :
Mr. Tilak Mitra, Adv.
Mr. Prithu Dudheria, Adv.
..for the appellant.

Mr. Soumitra Choudhury, Adv.
Mr. Avra Mazumder, Adv.
Mr. Pranabesh Sarkar, Adv.
Ms. Alisha Das, Adv.
Ms. Elina Dey, Adv.
Mr.Sourendra Nath Banerjee, Adv.
…for the respondent.

The Court : This is an appeal filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) challenging an order dated May 9, 2024 passed by the Income Tax Appellate Tribunal, 'A' Bench, Kolkata in ITA/762/Kol/2022 for the assessment year 2013-14.

We have heard Mr. Prithu Dudheria, learned senior standing counsel for the appellant/revenue and Mr. Soumitra Choudhury, learned counsel appearing for the respondent/assessee.

There is a delay of 52 days in filing the appeal.

As we are satisfied with the explanations offered in support of the application for condonation of delay, the delay in filing the appeal is condoned and the application, IA No: GA/1/2025, is, accordingly, allowed.

Learned counsel appearing for the assessee would submit that the assessee has been advised to avail the provisions of the direct tax Vivad Se Viswas Scheme (VSVS) dated 15th October, 2023. However, one issue may crop up if the assessee files an application under VSVS by citing that the duty fixed for eligible cases as has been mentioned in paragraph 3(Sl.1) (ii). Identical issue arose for consideration before this Court in the case of Principal Commissioner of Income Tax-1, Kolkata vs. Asish Kumar Ghosh, WPA 18282 of 2021 and by judgment dated 1st April, 2022 this Court had considered the very same issue and found that the assessee would be eligible to file a declaration under the provisions of the VSVS and a direction was also issued to process such application. The judgment rendered in Asish Kumar Ghosh will fully support the case of the assessee and therefore the assessee is entitled to file an application under the VSVS. Accordingly, the assessee is directed to file an application and the department shall process the application in accordance with law.

The appeal stands disposed of with the above directions and the substantial questions of law suggested are left open.

The connected application for stay also stands closed.

(T.S. SIVAGNANAM)
(CHIEF JUSTICE)

(CHAITALI CHATTERJEE (DAS), J.)

S.Das/Pkd.
AR[CR]