OD-14

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION [INCOME TAX]
ORIGINAL SIDE

ITAT/19/2025
IA No. GA/2/2025

PRINCIPAL COMMISSIONER OF INCOME TAX 2, KOLKATA
VS.
M/S R. S. DARSHAN SINGH MOTOR CAR FINANCE PRIVATE LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 28th July, 2025.

Appearance:-
Mr. Tilak Mitra, Adv.
Mr. Soumen Bhattacharjee, Adv.
Mr. Ankan Das, Adv.
Ms. Shradhya Ghosh, Adv.
... for the petitioner.

Mr. Saumya Kejriwal, Adv.
Ms. Ananya Rath, Adv.
Mr. Navin Mittal, Adv.
Mr. Debarghya Banerjee, 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 2.5.2024 passed by the Income Tax Appellate Tribunal, "B Bench", Kolkata (the Tribunal) in ITA No.265/Kol/2024 for the assessment year 2013-14.

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

i) Whether the Learned Tribunal has committed substantial error in law, by quashing the reassessment order u/s 147 of the Act ignoring the fact that the assessee failed to produce cogent explanation on the issue up to the satisfaction of the AO?

ii) Whether the Learned Tribunal has committed substantial error in law, by not justifying the information received by the AO was not a credible information mere based on the contention of the assessee and ignoring the Investigation report?

iii) Whether the Learned Tribunal has committed substantial error in law, by quashing the reassessment despite the involvement of exceptional clause as per para 3.1(h) of Board's Circular 05/2024 dated 15/03/2024, in this instant case?

We have heard Mr. Tilak Mitra, learned Senior Standing Counsel assisted by Mr. Soumen Bhattacharjee, learned Standing Counsel appearing for the appellant/department and Mr. Saumya Kejriwal, learned Advocate appearing for the respondent/assessee.

The assessment for the year under consideration was reopened on the ground that the Assessing Officer had reason to believe that the income chargeable to tax has escaped assessment within the meaning of Section 147 of the Act. Notice under Section 148 was issued on 19.03.2020 wherein the reasons for reopening were set out. The assessee submitted their objections by three letters, which were received by the Assessing Officer. However, the stand taken by the assessee in the three objections filed by them were not found acceptable by the Assessing Officer and accordingly, the objections were disposed of and the reassessment proceedings were initiated and completed by assessment order dated 27.09.2021 assessing the total income of the assessee at Rs.35,49,140/-. The tax effect in this case is Rs.10,81,500/-. However, the revenue would state that since the matter falls under the exception clause namely Clause 3.1(h) of the CBDT No. 5/24 dated 15th March, 2024 that this appeal is maintainable.

Aggrieved by the addition made by the Assessing Officer, the assessee preferred an appeal before the National Faceless Appeal Centre (NFAC). By order dated 25.01.2024, the appeal filed by the assessee was dismissed. Aggrieved by the same, the assessee preferred the appeal before the learned Tribunal, which had been allowed and aggrieved by the said order, the revenue has preferred the present appeal.

The first issue to be considered is whether the reopening of the assessment was valid in law. Admittedly, the assessee submitted their objections by sending three letters to the Assessing Officer in which the assessee was specifically sought for the information which led to issuance of notice under Section 148 of the Act. It is not in dispute that the information sought for was not furnished to the Assessing Officer. The learned Tribunal examined the reasons for reopening as recorded by the Assessing Officer and proceeded to consider as to whether the Assessing Officer has independently considered the matter and recorded reasons for reopening the assessment.

We have gone through the reasons recorded by the Assessing Officer and we find that the notice of reopening is solely based upon the letter issued by the Assistant Director of Income Tax (Investigation), Kolkata. The allegation is that the assessee has received a total amount of Rs.35,00,000/- from Brahma Trade Link P Ltd**.,** which is a shell company. On going through the reasons, we find that there is no independent finding recorded by the Assessing Officer that too when the assessee had specifically pointed out that they had not received Rs.35,00,000/- from the said company but had received a sum of Rs.20,00,000/- for which the sales bill had been produced. To support the stand, the assessee had produced the statement of bank account which shows that a sum of Rs.20,00,000/- was received from Brahma Trade Link P Ltd. on 11.7.2012 and 18.07.2012. More importantly, for identical reasons the assessment for the preceding year namely AY 2012-13 was sought to be reopened by issuance of notice and the assessee submitted their objections along with details and documents and the Assessing Officer, having been satisfied with the same, did not make any addition. This submission made by the assessee was found acceptable by the learned Tribunal while granting relief to the assessee. If the Assessing Officer had any information stating that the assessee had received a sum of Rs.35,00,000/- from Brahma Trade Link P Ltd. and the Assessing Officer upon receipt of such information should cause certain verification as to the correctness of what has been informed by the letter of the investigation made. In the instant case, no such step was taken by the Assessing Officer. More importantly, the Assessing Officer ought to have at least enquire into the matter after receiving the reply from the assessee wherein the assessee specifically stated that they had received a sum of Rs.20,00,000/- only from Brahma Trade Link P Ltd. and to support the same they have filed the statement of bank account and other details.

Therefore, we find, on fact, the learned Tribunal had granted relief to the assessee and in the absence of any question of law, much less substantial questions of law arising for consideration in this appeal, we find no ground to interfere with the order passed by the learned Tribunal.

Accordingly, the appeal fails and the same is dismissed. Therefore, the stay application being IA No. GA/2/2025 also stands dismissed.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

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