

OD-7

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

ITAT/67/2025  
IA NO: GA/2/2025

PRINCIPAL COMMISSIONER OF INCOME TAX-2, KOLKATA  
VS  
GILLANDERS ARBUTHNOT AND CO. LTD.

BEFORE :  
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM  
-A N D-  
HON'BLE JUSTICE BIVAS PATTANAYAK  
DATE : 8<sup>th</sup> July, 2025.

*Mr. Amit Sharma, Adv.  
...for appellant*

*Mr. Pratyush Jhunjhunwala, Adv.  
Ms. Sretapa Sinha, Adv.  
...for 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 May 3, 2024 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata (the Tribunal) in ITA/493/Kol/2023 for the assessment year 2009-10.

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

- a) Whether on the facts and in the circumstances of the case, the Learned Tribunal was justified in law to quash the reopening of assessment on account of lack of reason to believe that the income has escaped assessment ignoring the findings of the Assessing Officer based on information being set of fresh and new tangible evidence?*

- b) Whether on the facts and in the circumstances of the case, the Learned Tribunal was justified in law to hold the reopening of assessment as invalid due to change of opinion since the recorded transactions in books were already subjected to scrutiny despite the fact that the reopening was initiated on the basis of new information received from ITO (Inv) much after the completion of regular assessment wherefrom the transactions in question were found to be bogus in nature?*
- c) Whether on the facts and in the circumstances of the case, the Learned Tribunal was justified in law to quash the reassessment proceeding without appreciating and considering the fact that the assessee had delved into fictitious and suspicious transaction failing thereby to establish the genuineness of the transaction?*

We have heard Mr. Amit Sharma, learned standing counsel appearing for the appellant/revenue and Mr. Pratyush Jhunjhunwala, learned counsel appearing for the respondent/assessee.

The short issue which falls for consideration is whether the reopening of the assessment was validly done and whether the learned Tribunal was justified in allowing the assessee's appeal and setting aside the reopening of the assessment. The assessee during the year under consideration had made purchases of cotton from M/s. S.R. Sales Corporation, located in Haryana. The assessee filed a return of income showing total income of Nil. The return was processed under section 143(1) of the Act. Subsequently, the case was selected for scrutiny under section 143(2) and notice under section 143(1) was issued. In response to the notice the assessee was represented by their authorised representative and appeared from time to time before the Assessing Officer along with books of account and other details as called for. The Assessing Officer completed the assessment under section 143(3) by order dated 28<sup>th</sup>

December, 2012 accepting the submissions of the assessee. Subsequently, notice was issued for reopening the assessment.

As could be seen from the reasons for issuance of notice under section 148, the Assessing Officer relied upon a report termed as 'suspicious transaction report' in the case of M/s. S. R. Sales Corporation and based on that the Assessing Officer opined that he has reason to believe that income of the assessee chargeable to tax has escaped assessment within the meaning of Section 147 of the Act. The assessee submitted a detailed reply to the notice proposing to reopen the assessment. However, the reply did not find favour with the Assessing Officer and the objections were rejected and assessment was reopened and completed by order dated 29<sup>th</sup> December, 2016 and added Rs.99,35,000/- to the assessed income of the assessee company.

The assessee preferred appeal before the Commissioner of Income Tax (Appeals), National Faceless Assessment Centre (NFAC), Delhi, which was dismissed by an order dated 29<sup>th</sup> December, 2016. Aggrieved by the same the assessee preferred appeal before the learned Tribunal which has been allowed by the impugned order. The first aspect to be considered is whether the reopening of the assessment for the reasons which have been recorded was justified in law.

It is evidently clear from the records that the books of accounts produced by the assessee were not rejected by the Assessing Officer, rather they were not considered by the Assessing Officer nor by the first Appellate authority. The assessee to substantiate their purchases had submitted several documents in course of the assessment proceedings. It is evidently clear that the documents were not doubted by the Department but have been ignored. The documents which were produced by the assessee are the copies of the ledger account of M/s. S. R. Sales Corporation in the

books of the assessee depicting the complete details of the purchases as given by the assessee and also establishing the fact that payments have been made through banking channels. The assessee produced the copies of purchase bills from M/s. S. R. Sales Corporation, copy of excise declaration issued by M/s. S. R. Sales Corporation, copy of the audited receipt, copy of the road permit, copy of the packing list.

Apart from the above, the assessee also produced the relevant documents which are issued under the provisions of the Value Added Tax Act. It cannot be disputed by the revenue that the documents which have been issued by the VAT authorities are issued after a thorough check of the goods while in transit by way of an inter-state road movement. In this regard the assessee has enclosed about fifty documents in the form of a paper book before the Assessing Officer. That apart, the assessee produced audited books of accounts along with all supporting bills and vouchers and the same were accepted by the Assessing Officer during the assessment proceedings. The balance sheet and the audit report of the assessee mentioned about stock of the raw materials and finished goods. Therefore, the assessee by placing reliance on the audit report and balance sheet submitted that the raw material purchased from M/s. S. R. Sales Corporation has been utilized for production of the finished goods and have been sold and balance, if any, is maintained as closing stock. This aspect was not doubted by the Assessing Officer. That apart, the assessee produced complete details regarding opening stock and cotton purchased during the year under consideration, the quality used for manufacturing cotton and the closing stock and the Department did not make any adverse remark with regard to those details.

Thus, the learned Tribunal took note of these factual details and held that the reopening of the assessment is bad in law. In more than one place the learned Tribunal has pointed out that the books of accounts have not been rejected. The transaction cannot be doubted and assessment could not have been reopened.

In the light of the said factual background, we are of the view that the learned Tribunal was fully justified in allowing the assessee's appeal and setting aside the reopening of assessment.

Thus, we find no questions of law, much less substantial questions of law, arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed.

The stay application, GA/2/2025 also stands dismissed.

(T.S. SIVAGNANAM, C.J.)

(BIVAS PATTANAYAK, J.)