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

ITAT/76/2025
IA NO: GA/1/2025

PRINCIPAL COMMISSIONER OF INCOME TAX-2, KOLKATA
VS
M/s. NARAYAN TRADECOM PVT. LTD.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 10th June, 2025.

Mr. Aryak Dutt, Adv.
Mr. Prithu Dudheria, Adv.
…for appellant.

Mr. Vinoy Shroff, Adv.
Mr. Dev Agarwal, Adv.
…for respondent.

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 30.10.2024 passed by the Income Tax Appellate Tribunal, “B” Bench, Kolkata (Tribunal) in ITA/1844/Kol/2024, for the assessment year 2016-17.

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

“a) Whether in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in quashing the reassessment order without considering the fact that the reopening was made on the basis of specific and credible information from the investigation wing of the department ?

b) Whether in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in quashing the reassessment order without considering the established legal principles as laid down by the Hon'ble Delhi High Court in the matter of Rakesh Gupta vs. CIT, (2018) 405 ITR 213/303 ?

c) Whether in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in deleting the addition of Rs.22,00,119/- on account of unexplained cash credit U/s.68 of the I.T. Act in a situation involving absence of the identity of the creditors genuineness and creditworthiness of the entire transactions by not appreciating the judicial principles laid down in the matter of Balgopal Merchants [P] Ltd. vs. Principal Commissioner of Income Tax (2024) 162 taxmann.com 465 (Cal) ?"

We have heard Mr. Aryak Dutt, learned standing counsel appearing for the appellant and Mr. Vinoy Shroff, learned counsel for the respondent.

The short issue which falls for consideration is whether the learned Tribunal was right in allowing the assessee's appeal and setting aside the order passed by the Assessing Officer under section 68 of the Act, which order was affirmed by the Commissioner of Income Tax (Appeals) [CIT(A)]. The learned Tribunal has re-examined the factual position and found that the assessee had received aggregate of Rs.22 Lakhs from two parties, namely, M/s. Neelgagan Nirman Pvt. Ltd. and M/s. Outlook Highrise Pvt. Ltd. which was received during the year under consideration for facilitating the trading of L&T shares. Further, the Tribunal noted that these advances were also refunded within a period of three months within the same financial year. The assessee had filed all the documents in course of the assessment proceedings before the CIT(A) with regard to the advances received and the refund thereof. The Assessing

Officer issued notice under section 133(6) of the Act to both the aforementioned parties, who confirmed the transaction with the assessee. The learned Tribunal noted that the Assessing Officer did not issue any notice under section 131 or carry out any further verification but relied upon a third party statement of one Mukesh Banka recorded during the time of search, which was subsequently retracted by the said person. Therefore, the learned Tribunal on facts found that the assessee has discharged his onus by filing the necessary evidence before the Assessing Officer and that those two companies have also confirmed the transaction in response to the notice issued by the Assessing Officer under section 133(6) of the Act.

Thus, we find there is no question of law much less substantial question of law arising for consideration in this appeal. Accordingly, the appeal fails and is dismissed.

The stay application, IA No.GA1/2025 stands dismissed.

(T.S. SIVAGNANAM, CJ)

(CHAITALI CHATTERJEE (DAS), J.)

Pkd./S.Nath
AR[CR]