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

ITAT/79/2025
IA NO: GA/1/2025

PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA
VS
OMKARA VINCOM PVT LTD

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 3rd July, 2025.

Mr. Prithu Dudhoria, Adv.….for appellant.

Mr. Sourav Bagaria, Adv.
Mr. Rites Goel, Adv.
Ms. S. Das, Adv. …for respondent.

The Court : This appeal by the Income Tax department has been filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order dated 9.10.2024 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata (the Tribunal) in ITA/834/Kol/2024 for the assessment year 2013-14.

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 by holding that the Assessee had duly disclosed all the necessary facts regarding the impugned transaction of Rs.1,51,00,000/- in its books, whereas the case of the assessee was reopened by the Assessing Officer on the basis of concrete information that there was an accommodation entry taken by the assessee, and this specific fact came to the knowledge of

the Assessing Officer on receipt of specific information from the Investigation Wing?

(b) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law by holding that primary onus of proving the actual nature and source of the alleged transactions with cogent evidence was on the assessee and the assessee failed to furnish any cogent evidence before Assessing Officer as well as CIT (A) to establish its claim ?

(c) WHETHER in facts and in the circumstances of the case the Law in not considering the Explanation 1 to Section 147 of the I.T. Act 1961, and took into account facts extraneous and irrelevant, for the Assessing Officer to form 'reason to believe' and holding the reopening as invalid ?

We have heard Mr. Prithu Dudhoria, learned advocate for the appellant/department and Mr. Sourav Bagaria, learned counsel for the respondent/assessee.

The short issue which falls for consideration is whether the reopening of the assessment for the year under consideration by reassessment order dated 21.9.2021was valid in law. The assessee was unsuccessful before the first appellate authority namely, the National Faceless Appeal Centre (NFAC), Delhi. As the assessee's appeal was dismissed by an order dated 29.2.2024 the assessee carried the matter on appeal before the learned Tribunal and the appeal was allowed. Challenging the said order, the revenue has filed the present appeal. What is required to be seen in the instant case is whether the reopening of the assessment beyond the period of four years was validly done or in other words was there material to show that the assessee failed to fully and truly disclose all material facts necessary for the assessment. The learned Tribunal examined the factual position and found that the assessee has fully disclosed all facts in its return of income filed under section 139(1) of the Act by disclosing the money received namely of Rs.1,51,00,000/- in the books of accounts and also reflecting in the return of income and the case was selected for scrutiny and assessment was framed vide order dated 8.9.2013 passed under section 143 of the Act. Upon perusal of the reasoning of reopening we find that the assessing officer has merely extracted the statutory provision or in other words the ingredient as contained in section 147 of the Act and there is nothing to indicate as to the failure on the part of the assessee to fully and truly disclose all material facts which are necessary for the assessment. In support of such conclusion, the learned Tribunal placed reliance on the decision of the Hon'ble Supreme Court in ACIT vs. CEAT Ltd. in (2023) 146 taxmann.com 108(SC). The Tribunal also examined the correctness of the approval granted by the Principal Commissioner of Income Tax under section 151 of the Act and found that it was granted in the mechanical manner without due application of mind and held that the same being bad in law. To support such conclusion, reliance was placed on the decision of the High Court of Delhi in the case of Principal Commissioner of Income Tax vs. Pioneer Town Planners Pvt. Ltd. in (2024) 465 ITR 356 (Del.)

In the light of the above findings, we are of the clear view that no question of law much less substantial question of law arises for consideration in this appeal. Accordingly, the appeal fails and the same is dismissed.

Consequently, the application, GA/1/2025 stands dismissed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

SM/pkd.
AR[CR]