OD-4

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

ITA/66/2013
THE COMMISSIONER OF INCOME TAX, KOLKATA-XI, KOLKATA
VS
M/S CLASSIC CREATION

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. Prithu Dudhoria, Adv. …for appellant.

The Court : - This appeal has been filed by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) challenging the order dated 12.7.2012 passed by the Income Tax Appellate Tribunal, "C" Bench, Kolkata (the Tribunal) in ITA No./358/Kol/2012 for the assessment year 2008-09.

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

"I. Whether on the facts and in the circumstances of the case, the Learned Income Tax Appellate Tribunal erroneous in allowing the expenditure incurred by the respondent on account of Air Freight Charges by invoking the provision of Section 40(a)(ia) of the Income Tax Act, 1961 as the assessee had not deducted tax under Section 194C of the said Act.

II. Whether the provision of Section 40(a)(ia) of the Income Tax Act, 1961 are applicable only to the amount of expenditure which are payable as on 31st March every year, not on the expenditure which has been actually paid during the previous year without deducting the TDS under Section 194C of the Income Tax Act, 1961."

We have heard Mr. Prithu Dudhoria, learned advocate for the appellant.

As could be seen from the assessment order dated 3.12.2010 passed under Section 143(3) of the Act, the total tax involved in the instant appeal is Rs.9,72,639/-. If that be so, the revenue cannot pursue this matter any further as the tax effect is far below the threshold limit fixed by the circular issued by the Central Board.

Accordingly, the appeal stands disposed of on the ground of low tax effect. The questions of law suggested by the revenue are left open.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

SM/pkd.
AR(CR)