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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITAT/96/2025
IA NO: GA/1/2025, GA/2/2025
PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA
VS
R.C. SUPPLIERS PRIVATE LIMITED

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 13th May, 2025

Appearance :
Mr. Soumen Bhattacharjee, Adv.,
Ms. Shradhya Ghosh, Adv.
...for appellant

The Court : This appeal has been preferred by the revenue under Section 260A of the Income Tax Act, 1961 (the Act) challenging the order dated 29.11.2023 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata (Tribunal) in ITA No. 64/Kol/2023 for the assessment year 2014-15.

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

a) Whether the Learned Tribunal has committed substantial error in law, by failing to appreciate that the disallowance made by the Assessing Officer on account of Bogus Loss from share transaction amounting to Rs.71,38,200/- from the scrip of "First Financial Services Ltd." was justified in view of the fact that the said company was in the list of entities involved in doing suspicious transaction in penny stocks and that the assessee, who was specialized in dealing in shares, would have no justifiable reason to deal in such scrips ?

b) Whether the Learned Tribunal has committed substantial error in law, by failing to appreciate that the very facts that the share transaction amounting to Rs. 71,38,200/- was done in respect of scrips of "First Financial Services Ltd." which was in the list of entities involved in doing suspicious transaction in penny stocks and that the assessee, who was specialized in dealing in shares, would have no justifiable reason to deal in such scrips taken cumulatively lead to the inescapable conclusion that the transaction of purchase of the said scrip by the assessee was managed and fabricated to claim bogus loss ?

We have heard Mr. Soumen Bhattacharjee, learned standing counsel appearing for the appellant/revenue.

Though notice has been served on the respondent/assessee, none appears for the respondent.

There is a delay of 307 days in filing the appeal. Though the explanation offered is not fully satisfactory, since this is an appeal filed under Section 260A of the Income tax Act wherein the Court is to consider whether any substantial question of appeal is involved, we are persuaded to exercise our discretion in the matter and condone the delay. The application IA No: GA/1/2025 is allowed.

The assessee approached the learned Tribunal challenging the order passed by the Appellate authority dated 1st December, 2023 by which the appeal filed by the assessee challenging the assessment order dated 20th December, 2016 was affirmed. The Assessing Officer while completing the assessment held that the loss from M/s. First Financial Services Ltd. as claimed by the assessee is not treated as genuine business transaction made with an intention to create profit as the transaction was manufactured, managed and fabricated. Accordingly, the loss claimed by the assessee arising out of the said transaction amounting to Rs.71,38,200/- was disallowed and added to the income of the assessee.

The learned Tribunal examined the factual aspects and noted that the share price of M/s. First Financial Services Ltd. was rigged by some persons but the assessee was not aware of that and the assessee was not involved in share price rigging. Further, the learned Tribunal noted that SEBI had conducted an investigation and also examined the role of the assessee and by order dated 2nd April, 2014 SEBI found that the assessee was not involved in price rigging of shares of First Financial Services Ltd. Therefore, the Tribunal came to the conclusion that the addition made by the Assessing Officer was not justified. The learned Tribunal also referred to a similar case of the Mumbai Tribunal in the case of Sunita Chaudhry vs. ITO in ITA No.143/Mum/2022, dated 13.10.2022, which was also concerning the scrips of M/s. First Financial Services Ltd. and the Tribunal took note of the report drawn by SEBI pursuant to the investigation and found the assessee was not involved in the share price rigging. Therefore, the learned Tribunal on examination of the admitted factual position granted relief to the assessee.

Thus, we find no questions of law, much less substantial question 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.)

(CHAITALI CHATTERJEE (DAS), J.)

SN.
AR(CR)