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

ITAT/102/2025
IA NO: GA/1/2025, GA/2/2025
COMMISSIONER OF INCOME TAX,
(INTERNATIONAL TAXATION & TRANSFER PRICING), KOLKATA
VS.
SIGNIFY HOLDING B.V.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE: 6TH MAY, 2025

Appearance:
*Mr. Vipul Kundalia, Sr. Adv.*
*Mr. Soumen Bhattacharjee, Adv.*
*Mr. Ankan Das, Adv.*
*Mr. Anindya Kanan, Adv.*
*Ms. Shradhya Ghosh, Adv.*
*...for Appellant*

*Mr. A.K. Dey, Adv.*
*...for respondent*

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 17.1.2024 passed by the Income Tax Appellate Tribunal "C" Bench, Kolkata in ITA No. 314/Kol/2023, for the assessment year 2020-21.

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

*"i) Whether in the facts and circumstances of the case, the Hon'ble ITAT has committed substantial error in law by not*

*considering that the DIN generated copy of the DRP order was not served to the AO and the A.O only received physical copy of the order on 3.1.2023 and the A.O passed final assessment order on 6.2.2023 well within limitation date to pass final assessment order as per section 144C(13) of the Income Tax Act, 1961?*

*ii) Whether in the facts and circumstances of the case, the Hon'ble ITAT has committed substantial error of law that order of DRP was served by post to the AO on 03.01.2023 and thereby the assessment order was passed within the time limit as specified in the Income Tax Act, 1961 on 28.2.2023?"*

We have heard Mr. Vipul Kundalia, learned senior standing counsel appearing for the appellant/revenue and Mr. A.K. Dey, learned Advocate for the respondent/assessee.

There is a delay of 308 days in filing the appeal. Though the explanation offered is not fully satisfactory, since this appeal has been filed under Section 260A of the Act, this Court is required to consider whether any substantial questions of law arises for consideration. For such purpose, we exercise our discretion and condone the delay in filing the appeal. The application IA No: GA/1/2025 is allowed.

The assessee preferred the appeal before the learned Tribunal against the directions issued by the Dispute Resolution Panel (DRP) under Section 144C(5) of the Act dated December 22, 2022 for the assessment year 2020-21 passed against a draft assessment order under Section 144C of the Act by the Assessing Officer.

The first ground of challenge to the said order was by contending that the Assessing Officer had passed the order under Section 143(3) read with Section 144C of the Act on February 6, 2023 without appreciating the fact that the time limit for passing the order expired on January 31, 2023 in terms of the provisions contained in sub-section 13 of Section 144C of the Act. Apart from the above ground, the assessee also challenged the order on merits. The learned Tribunal took up for consideration the question of limitation at the first instance and after taking note of the decision in the case of *Vodafone Idea Ltd., (2023) 156 taxmann.com 258 (Bom.)* and certain other decisions of the co-ordinate Bench of the Tribunal, took note of the common functions module in Instruction No.3, issued by the Directorate of Income Tax (System), New Delhi dated September 17, 2019 on the subject of "roll out of facility for system generated documents (i.e. intimation letter)" containing Document Identification Number (DIN) for documents issued outside the system but uploaded manually in the Income Tax Officers Application (ITOA). In this regard, reference was made to the Instruction contained in paragraph 7. After taking note of the said Instruction, the learned Tribunal considered the facts and found that the instruction issued by the DRP along with intimation dated December 22, 2022 was uploaded in the portal on the same day and was available to the Assessing Officer for passing the assessment order which ought to have been passed on or before January 31, 2023 in terms of Sub-section 13 of Section 144C of the Act. However, the final assessment order was passed by the Assessing Officer on February 6, 2023 which is beyond the statutory limitation prescribed under Sub-section 13 of Section 144C of the Act. Therefore, the learned Tribunal came to the conclusion that the final assessment order passed is beyond the limitation prescribed under the Act and therefore it is bad in law and accordingly the same was quashed.

On facts we find that the learned Tribunal has taken note of the relevant dates and come to the conclusion that the final assessment order was passed beyond the period of limitation fixed under sub-Section 13 of Section 144C of the Act. 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 application IA No:GA/2/2025 also stands dismissed.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

sm/SN.