OD-13

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

ITAT/110/2025
IA NO: GA/2/2025

PRINCIPAL COMMISSIONER OF INCOME TAX 5 KOLKATA
VS
GANESHVANI TRADELINK PVT LTD

BEFORE:
The Hon'ble CHIEF JUSTICE (ACTING) SOUMEN SEN
The Hon'ble JUSTICE RAJA BASU CHOWDHURY
Date: 18th September, 2025.

APPEARANCE :
Mr. Tilak Mitra, Adv.
Mr. Prithu Dudhoria, Adv.
...for the appellant.

1. The present appeal has been filed challenging the order dated 9th October, 2024 passed by the Income Tax Appellate Tribunal "SMC" Bench, Kolkata (hereinafter referred to as the "Tribunal") in I.T.A. No. 1386/Kol/2024 relating to the Assessment Year 2013-14.

2. It appears that the assessee had challenged the assessment order passed under Section 147 read with Section 144B of the Income Tax Act 1961 (hereinafter referred to as the "said Act") dated 30th March, 2022 for the assessment year 2013-14 before the Tribunal, on the ground that the assessment could not have been reopened under Section 147 of the said Act after 4 years from the end of the relevant assessment year, without satisfying the conditions as enumerated in the first proviso to Section 147 of the said Act. The assessee had filed a return of income on 24th September, 2013 for the relevant

assessment year. The case was selected for scrutiny and assessment, and an order was passed under Section 143(3) of the said Act dated 12th November, 2015, whereby an addition was made.

3. In this case, the assessment was reopened after a period of 4 years from the end of the relevant assessment year. As such, as per the first proviso to Section 147 of the said Act, where an assessment under Section 143(3) of the said Act has been made, the assessment could be reopened only if, an escapement of income was attributable to the failure of the assessee to disclose fully and truly all material facts necessary for his assessment for that assessment year.
4. We find that the Tribunal has observed that the Assessing Officer did not make out a case as to how income has escaped assessment because of failure of the assessee to fully and truly disclose the material facts *qua* the said income, during the assessment proceedings.
5. In view of the settled legal position and having regard to the fact that escapement of income, if any, is not attributable to the failure of the assessee to disclose fully and truly all material facts *qua* the said income, we feel that the learned Tribunal was justified in allowing the appeal filed by the assessee.
6. The appeal stands dismissed.

[SOUMEN SEN, CJ(ACTING.)]

(RAJA BASU CHOWDHURY, J.)

KB/mg