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

ITAT/133/2025
IA NO: GA/2/2025

PRINCIPAL COMMISSIONER OF INCOME TAX 2
KOLKATA
VS
RAHUL PREMIER INDIA AGENCY PRIVATE LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 5th August, 2025.

Appearance :
Mr. Aryak Datt, Adv.
Mr. Prithu Dudhoria, Adv. ...for appellant.

Mr. Pratyush Jhunhunwalla, Adv.
Ms. Sruti Dutta, Adv.
Ms. Sakshi Singhi, Adv.....for respondent

The Court : - This appeal filed by the revenue 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, "SMC" Bench, Kolkata (the Tribunal) in ITA/1414/Kol/2024 for the assessment year 2013-14.

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

- "1. Whether in facts and in the circumstances of the case the Ld.Income Tax Appellate Tribunal was not justified in law in quashing the reassessment order without considering the fact that the reopening was made on the basis of specific and credible information from the investigation wing of the department ?*
- 2. Whether in facts and in the circumstances of the case the Ld.Income Tax Appellate Tribunal was not justified in law in deleting the addition of*

Rs.40,00,000/- on account of unexplained cash credit U/s.68 of the I.T. Act without considering the fact that assessee failed to produce any cogent explanation towards establishing the identity and genuineness of the share transactions ?”

We have heard learned advocates on either side.

The assessment for the year under consideration, AY 2013-14 was completed under section 147 read with section 144B of the Act by an order dated 15.9.2021 and an amount of Rs.40 lakhs was held to be taxable income of the assessee. The assessee carried the matter on appeal before the National Faceless Appellate Tribunal (NFAC) which was dismissed by an order dated 7.6.2024. The assessee challenged the said order before the learned Tribunal which was allowed by the impugned order. Aggrieved by the same, the revenue is before us by way of an appeal. The factual details as set out by the learned Tribunal in paragraph 6.1 of the impugned order are not in dispute. In the reasons for reopening, the assessing officer held that income chargeable to tax amounting to Rs.50 lakhs has escaped assessment. However, the consistent case of the assessee was that they had borrowed a sum of Rs.40 lakhs from M/s. Nikhil Holding Pvt. Ltd. and to establish the same they have produced all documents and details apart from the assessment which were framed in the case of M/s. Nikhil Holdings Pvt. Ltd. under section 143(3) read with section 153A of the Act. Apart from that loan confirmation was also filed by the assessee. More importantly, the Tribunal noted that the assessee to establish the genuineness of the transaction produces the books of accounts where it has been recorded the income tax return, balance-sheet, bank statement, loan confirmation and the assessment order of the loan creditors for the same year and no adverse remark was made about the loan given to the assessee. Furthermore, the assessing officer rejected the objection raised by the assessee for

reopening of the assessment by merely relying upon the statement of one Lahoti, who was the Director of M/s. Nikhil Holdings Pvt. Ltd. and the request made by the assessee for cross-examination of the said person was denied. Apart from that it is seen that the said loan was availed by the respondent/assessee was repaid back in the subsequent year and the party has confirmed the loan by confirmation which was filed in the re-assessment proceeding and no adverse remark has been made by the assessing officer while completing the assessment. Therefore, the Tribunal, in our view, rightly came to the conclusion that the reopening of the assessment was bad in law. To support the conclusion arrived at by the Tribunal several decisions have been relied upon which we feel are not required to be reproduced in this judgment and order as on facts the Tribunal found that the reopening was bad in law.

Thus, we find 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, IA NO: GA/2/2025 stands dismissed.

(T.S. SIVAGNANAM, C.J.)

(CHAITALI CHATTERJEE (DAS), J.)