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

ITAT/222/2024
IA NO: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX, SILIGURI
VS.
M/S. DAKSHIN DINAJPUR DISTRICT CENTRAL
CO-OPERATIVE BANK LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Dated : 23RD APRIL, 2025

Appearance:
Mr. Amit Sharma, Adv.
...for Appellant
Mr. Sumit Ghosh, Adv.
Mr. Souradeep Majumdar, 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 26th June, 2023 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (Tribunal) in ITA No. 289/Kol/2022 for the assessment year 2017-18.

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

> *"i) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in quashing the order under Section 263 of the Income Tax Act, 1961 when it is apparent from the records that the assessment order is erroneous and prejudicial to the interest of the Revenue*

inasmuch as the same has been passed by the assessing officer without making due and proper enquiry and without verification of the issues raised by the PCIT, Siliguri?

ii) *Whether the Learned Tribunal has substantially erred in law in quashing the order passed under section 263 of the Income Tax Act, 1961 when the PCIT, Siliguri has conclusively found the order of the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 to be erroneous and prejudicial to the interest of the revenue and accordingly directed the Assessing Officer to pass fresh assessment order?*

iii) *Whether the Learned Tribunal has substantially erred in law in quashing the order under Section 263 of the Income Tax Act, 1961 despite the fact that the assessment order sought to be revised was passed without due application of mind on all the issues involved and without proper verification of claims of deduction and expenses under various sections resulting in substantial loss to the revenue?"*

We have heard Mr. Amit Sharma, learned standing counsel appearing for the appellant/revenue and Mr. Sumit Ghosh, learned Counsel appearing for the respondent/assessee.

The short issue which falls for consideration is whether the learned Tribunal was justified in allowing the appeal filed by the respondent/assessee, which is a District Central Co-operative Bank, thereby setting aside the order passed by the Principal Commissioner of Income Tax, Siliguri (PCIT), in an order passed under Section 263 of the Act for the assessment year 2017-18. PCIT has recorded in his order dated 22.2.2022 that verification of the assessment records indicated that the Assessing Officer has not called for details to verify the claim of the assessee about the deduction and allowed the deduction to the extent of Rs.9,40,080/- under Section 36(1)(viia) and Rs.40,27,976/- towards profit of rural Branches as claimed by the assessee. Further, the PCIT opined that the Assessing Officer failed to verify whether the Branches are rural Branches or not by examining the population criteria mentioned in the Explanation to Clause 2, Section 36(1)(viia). Further, the PCIT opined that the details of the miscellaneous expenses as claimed by the assessee society is not available on record and not called for by the Assessing Officer. Further, the PCIT also was of the opinion that the interest suspense claimed by the assessee society was incorrect. Finally, the PCIT opined that there is no reply given to point Nos. 1, 2, 3 and 4 of the Assessing Officer's letter dated 12.12.2019 from the assessee. Based on the above, the notice under Section 263 of the Act was issued. The assessee has submitted the detailed explanation for all the queries, as could be seen from the documents annexed in the compilation filed by the assessee before this Court which contains the documents which were filed before the PCIT as well as before the Assessing Officer. Each and every aspect has been explained and it is factually incorrect to state that the assessee has not replied to the various points raised in the letter of the Assessing Officer dated 12.12.2019. So far as whether a particular Branch is a rural Branch or otherwise depending upon the population, the assessee society has produced a certificate issued by the Gram Panchayat dated 22.3.2022 stating that the population of that area was 9865 as on 31st March, 2017. However, in the order passed by the PCIT, there is a reference to the population as per the census taken during 2011 which, according to the PCIT, is 12462. The PCIT has not discredited or rejected the certificate issued by the Gram Panchayat and no reasons are forthcoming. Apart from that, questionnaire was issued to the assessee by the Assessing Officer on two dates, the first of which being on 26.11.2019 and the second on 12.12.2019. The assessee has given its reply, which was considered by the Assessing Officer and thereafter, the assessment has been completed.

Thus, we are of the clear view that the learned Tribunal on appreciation of the factual position rightly came to the conclusion that the Assessing Officer did conduct an enquiry into all aspects of the matter and thereafter completed the assessment, which was set aside by the PCIT by conducting a roving enquiry going beyond the scope of his jurisdiction under Section 263 of the Act.

Thus, we find no questions of law, much less substantial questions of law, arising for consideration in this appeal. The appeal thus fails and is dismissed.

Consequently, the stay application, GA/2/2024, stands dismissed.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

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