OD-33

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/321/2024
IA NO: GA/2/2024

BRAHMANI INFRACON PVT LTD.
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE DEBANGSU BASAK
AND
The Hon’ble JUSTICE MD. SHABBAR RASHIDI
Date : October 28, 2025

Appearance :
Ms. Sutapa Roy Chowdhury, Sr. Adv.
Ms. Aratrika Roy, Adv.
..for the appellant.

Mr. Vipul Kundalia, Sr. Adv.
Mr. Amit Sharma, Adv.
…for the respondent.

The Court: The appeal is at the behest of the assessee directed against an order dated September 14, 2023 passed in WPO/1567/2023.

Learned Senior Advocate for the appellant submits that, the authorities initially issued a notice under Section 148A of the Income Tax Act, 1961 which arrived at a figure of less than Rs.50 lakhs as to the income escaping assessment. She draws the attention of the Court to the approval granted under Section 151 of the Act of 1961 and submits that the approval was given mechanically. She relies upon a decision reported at [2023] 155 taxmann.com 335 (Bombay) [Bhavesh Maganlal Dharod Vs. Income-tax Officer] and contends that, since the permission for reopening was granted mechanically by the Principal Commissioner without application of mind, the same is non-est.

Revenue is represented.

We find from the records that the authorities issued a notice under clause (b) of Section 148A of the Act of 1961 to the appellant, on March 23, 2023. We also find that, a notice under Section 148 of the Act of 1961 was issued to the assessee on May 1, 2023 after obtaining an approval under Section 151 of the Act of 1961 on May 1, 2023.

The grant of approval under Section 151 of the Act of 1961 was considered by the learned Single Judge in the impugned order. The learned Single Judge found that, there was an approval granted by the appropriate authority.

Contention before us by the appellant is that, the approval granted under Section 151 of the Act of 1961 was done mechanically.

We are not in a position to accept the contention of the appellant since the grant of approval takes note of the fact that, the time period prescribed for proceeding. The grant of approval, therefore, proceeds to grant to the same taking note of the fact that, the approval was noted under Section 148A(d) for the issuance of notice under Section 148 of the Act of 1961 and that the quantum involved was within the period of limitation prescribed.

The decision of the approval granting authority as recorded on May 1, 2023 cannot be said to be perverse. It is a plausible view. At the time of issuance of the notice under Section 148 of the Act of 1961, the quantum of income that is to be charged, if sought, was yet to be determined finally. It is on the preliminary finding the approval as sought for is granted. The decision, therefore, on grant of approval cannot be faulted in the facts and circumstances of the present case.

So far as the ratio decided on Bhavesh Maganlal Dharod [supra] is concerned, it proceeds on the basis that, the grant of approval was done mechanically. It was only the factual matrix obtaining in the case where such finding was rendered by the Court.

In course of the hearing, we drew the attention of the learned Senior Advocate appearing for the appellant as to the finding rendered by the Assessing Officer with regard to the genuineness of the transaction. We called upon the appellant to establish such finding as perverse. The same was not done by the appellant.

In such circumstances, we find no merit in the present appeal.

Accordingly, APOT/321/2024 along with GA/2/2024 stands dismissed without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

S.Seal/SD.