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

ITAT/239/2024
IA NO: GA/2/2024

PRINCIPAL COMMIDDIONER OF INCOME TAX CENTRAL 1 MUMBAI
VS
TULSYAN AND SONS PRIVATE LIMITED

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Date : 16th April, 2025.

Mr. Aryak Dutta, Adv.
Mr. Soumen Bhattacharjee, Adv.
Mr. Ankan Das, Adv.
Ms. Riya Kundu, Adv.
Ms. Shradhya Ghosh, Adv. …for appellant.

Mr. J.P. Khaitan, Sr. Adv.
Mr. Pratyush Jhunjhunwalla, Adv.
Mr. Uttam Sharma, 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 18.1.2024 passed by the Income Tax Appellate Tribunal "B" Bench, Kolkata [Tribunal] in ITA NO.812/KOL/2023 for the assessment year 2011-12. The revenue has raised the following substantial questions of law for consideration.

"a. Whether the learned tribunal has committed substantial error in law by deleting the addition of Rs.2,65,00,000/- that had been made on account of unexplained cash credit under section 68 of the Income Tax Act, 1961 ?

b. Whether the learned tribunal has committed substantial error in law by failing to appreciate that neither the identity and creditworthiness of the creditors nor *the genuineness of the transactions has been established and that addition deleted by CIT(A) were perfectly justified ?"*

We have heard Mr. Aryak Dutta, learned standing counsel assisted by Mr. Soumen Bhattacharjee, learned standing counsel for the appellant and Mr. J. P. Khaitan, learned senior advocate assisted by Mr. Pratyush Jhunjhunwalla, learned advocate for the respondent.

The short issue which falls for consideration is whether the learned tribunal was right in affirming the order passed by the Commissioner of Income Tax (Appeals)-21, Kolkata [CIT(A)] dated 10.5.2023 by which the assessee's appeal was allowed and the addition made under section 68 of the Act was deleted. The Assessing Officer made the addition by invoking section 68 of the Act on the ground that the assessee failed to discharge its onus to establish identity, creditworthiness and genuineness of the transaction in respect of the money received through cash trail. The CIT(A) in course of hearing the appeal called for a remand report from the Assessing Officer and in the said remand report the Assessing Officer has in no uncertain terms accepted the receipt of the impugned sum on account of sale proceeds of investment. The Assessing Officer verified the investment sold which are shown in the balance-sheet for the financial year 2010-11 in Schedule-4 of the balance-sheet and after considering these facts it was stated that the assessee had sold shares held by way of the investment during the year to M/s. Shivshakti Communications and Investment Pvt. Ltd. and Carnation Tradelink Pvt. Ltd. and it is not a receipt of unsecured loan. This fact, apart from other factual details, were considered by the CIT(A) and by an elaborate order dated 10.5.2023 the appeal filed by the assessee was allowed. The tribunal on its part re-examined the factual position and took note of the findings rendered by the CIT(A) and concurred with the same. We also find that the tribunal has also examined the factual position and took note of the remand report as called for by the CIT(A) which confirmed the alleged sum is on account of sale of investment and not otherwise.

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 connected application stands closed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

Pkd./S.Das
AR[CR]