

OD - 3

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

ITAT/246/2024
IA NO: GA/2/2024

PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA
VS
M/S HINDUSTAN COPPER LTD

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. Soumen Bhattacharjee, Adv.
Mr. Ankan Das, Adv.
Ms. Shradhya Ghosh, Adv. ...for appellant.

Mr. J.P. Khaitan, Sr. Adv.
Mr. Souran Chunder, Adv.
Mr. Nilanjan Bhattacharya, 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 3.10.2023 passed by the Income Tax Appellate Tribunal "A" Bench, Kolkata [Tribunal] in ITA NO.491/KOL/2023 for the assessment year 2017-18. The revenue has raised the following substantial questions of law for consideration.

"a. Whether the learned tribunal has committed substantial error in law by failing to appreciate that income of Rs.123,15,10,000/- had accrued to the assessee as per the mercantile system and the accounting concepts prescribed by the Companies Act, in the financial year 2016-17 i.e. relevant to A.Y. 2017-18 in terms of the Order dated 10.11.2016 passed by the Hon'ble Supreme Court in the case of Manganese One India Ltd. vs. State of M.P. & Ors.?"

b. Whether the learned tribunal has committed substantial error in law by deleting the addition of Rs.73,68,76,693/- which had not been offered to tax by

the assessee company during the financial year 2016-17, being the year of accrual of income as per the accepted norms of accountancy ?

We have heard Mr. Soumen Bhattacharjee, learned standing counsel for the appellant and Mr. J. P. Khaitan, learned senior advocate for the respondent.

The learned tribunal allowed the assessee's appeal and set aside the order passed by the Commissioner of Income Tax (Appeals), Kolkata [CIT(A)]-NFAC, Delhi dated 24.3.2023 arising out of the assessment order under section 143(3) dated 26.12.2019. The assessee contended that the appellate authority erred in affirming the addition in relation to the recoverable excess electricity charges on the basis of the decision of the Hon'ble Supreme Court in Civil Appeal No.2464 of 2016 in Manganese Ore India Ltd. vs. State of M. P. & Ors. dated 10.11.2016. The learned tribunal noted the facts and the decision of the Hon'ble Supreme Court wherein the Hon'ble Supreme Court held that the assessee was being charged for the electricity at the rates meant for commissioning but the assessee are liable to be charged at the rate applicable for manufacturing units. Consequently, the assessee was entitled to the refund/adjustment of the excess amount of electricity dues paid for the preceding three years namely, 2017-18, 2018-19 and 2019-20. The assessing officer was of the view that the assessee ought to have declared the amount received from the M.P. State Electricity Board as income for the assessment year 2017-18 and, accordingly, made addition which was affirmed by the appellate authority. The learned tribunal took note of the decision of the Hon'ble Supreme Court by which the assessee was entitled for the refund of the excess amount of Rs.123.15 crores. In terms of the directions issued by the Hon'ble Supreme Court the assessee was to adjust the amount excess towards future demands. On facts, the learned tribunal noted that the assessee had correctly adjusted the amount receivables from the M.P. State Electricity Board against

electricity charges payable by them for the assessment year 2017-18 and the remaining unadjusted amount was subsequently adjusted during the assessment years 2018-19 and 2019-20. Therefore, the tribunal found that the assessee has not claimed the electricity expenses for all the three assessment years which indirectly mean that the income of the assessee has increased the total amount receivable by the assessee from the M.P. State Electricity Board. Therefore, the tribunal came to the conclusion that on facts it would tantamount to double addition in the case of the assessee because the same has already been offered to tax during the assessment years 2018-19 and 2019-20 in terms of the direction issued by the Hon'ble Supreme Court in its order dated 10.11.2016. Thus, the learned tribunal was right in taking note of the directions issued by the Hon'ble Supreme Court and granted relief to the assessee. 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.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)