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IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction [Income Tax]

ORIGINAL SIDE

ITA/32/2023

PRINCIPAL COMMISSIONER OF INCOME TAX-5, KOLKATA
VS.
ABHISHEK SAHA

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
Dated : 1st August, 2025

<u>*Appearance :*</u>
Mr. Prithu Dudhoria, Adv.
…for Appellant

The Court : We have heard Mr. Prithu Dudhoria, learned Standing Counsel appearing for the appellant/revenue.

This appeal filed by the Department under Section 260A of the Income Tax Act, 1961 is directed against the order dated March 31, 2023 passed by the Income Tax Appellate Tribunal, "B" - Bench, Kolkata in ITA No.89/Kol/2022 for the assessment year 2017-18.

The appeal was admitted on the following substantial questions of law:

a) *Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in passing order adverse to revenue without considering the fact that the Assessee did not produce any relevant details before the Assessing Officer for examination but filed appeal against the assessment order seeking relief?*

b) *Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal is justified in passing order adverse to revenue without considering the fact that, the Assessee did not have any opportunity of examining explanation and supporting evidences on the basis of which relief has been allowed to the assessee vide its order?*

c) *Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was justified in passing order adverse to Revenue without calling for any report/submission from the Assessing Officer, on the explanation and evidences submitted by the Assessee before Appellate Authority, which were never produced during the stage of assessment proceedings?*

The learned Standing Counsel appearing for the appellant/department has written instruction given by the Deputy Commissioner of Income Tax, Hqrs-5, Kolkata dated 28th July, 2025 stating that the tax effect involved in this appeal is below the threshold limit as submitted in the Circular No.09/2024 dated 17/09/2024 and that the case does not fall under any of the exception clauses.

In the light of the same, the revenue cannot pursue this appeal any further and accordingly, the appeal stands disposed of on the ground of low tax effect and the substantial questions of law which were allowed for consideration, are left open.

The written instruction given by the department is taken on record.

(T.S. SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

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