

OD - 8

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

ORIGINAL SIDE

ITAT/285/2024  
IA NO: GA/2/2024  
PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA  
VS  
PHILIPS INDIA LTD.

BEFORE :  
THE HON'BLE CHIEF JUSTICE T.S SIVAGNANAM  
And  
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)  
Date :13<sup>th</sup> August, 2025

Appearance :  
*Mr. Smarajit Roy Chowdhury, Adv.*  
*Mr.Prithu Dudhuria, Adv.*  
*..for the appellant.*

*Mr. ParseePadriwala, Sr. Adv.*  
*Mr. Niraj Seth, Adv.*  
*Mr. A.K. Dey, Adv.*  
*Mr. B. Dey, Adv.*  
*...for the 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 March 31, 2023 passed by the Income Tax Appellate Tribunal, B- Bench, Kolkata (the Tribunal) in ITA/1285/Kol/2019 and ITA/1939/Kol/2019 both relating to the assessment year 2010-11.

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

*“Whether on the facts and in the circumstances of the case the Learned Income Tax Appellate Tribunal was not justified in quashing the assessment order without considering the Explanation 1 to Section 147 of the Act which mandates “production before the assessing officer of account book or other evidence from which material evidence could with due diligence have been discovered by the assessing officer will not necessarily amount to disclosure within the meaning of the foregoing proviso?”*

We have heard Mr. Smarajit Roy Chowdhury, learned senior standing counsel for the appellant/revenue and Mr. Parsee Padriwala, learned senior advocate for the respondent/assessee.

The short issue which falls for consideration is whether the learned Tribunal was right in allowing the assessee’s appeal and dismissing the cross appeal filed by the revenue against the order passed by the Commissioner of Income Tax (Appeals) – 4, Kolkata [CIT(A)] dated 29<sup>th</sup> March, 2019 for the assessment year under consideration, A.Y. 2010-11. The reopening of the assessment and the order of reassessment under section 147 of the Act was put to challenge. The learned Tribunal carefully examined the factual position more particularly the reasons that have been recorded by the assessing officer for reopening the assessment. The reasons have been culled out in the assessment order dated 27.12.2017 passed under section 147 read with section 144 read with sections 254 and 143(3) of the Act. On a bare reading of the said reasons it is found that the assessing officer has not brought out as to how the assessee had not disclosed full particulars and there was an intention to evade payment of taxes. In fact, the reasons itself have been culled out from the books of accounts of the assessee, the bank statement, the P& L account, the excise duty register and all other records and has

rightly held by the learned Tribunal that the assessing officer has not mentioned anything about the failure on the part of the assessee to fully and truly disclose all relevant information. As has been held in several decisions, reasons are the manifestation of the mind of the assessing officer. The reasons recorded should be self-explanatory and should not keep the assessee guessing for the reasons. Reasons provide link between the conclusion and evidence; the reasons recorded must be based on evidence. Furthermore, the assessing officer must disclose in the reasons as to which fact or material was not disclosed by the assessee fully and truly necessary for the assessment of that assessment year so as to establish vital link between the reasons and the evidence. This being conspicuously absent in the reasons recorded by the assessing officer, the learned Tribunal was fully justified in allowing the assessee's appeal. Thus, we find that there is no question of law much less substantial question of law arising for consideration in this appeal.

Accordingly, the appeal fails and is dismissed. Consequently, the application [IA No.GA/2/2024] stands closed.

(T.S SIVAGNANAM, CJ.)

(CHAITALI CHATTERJEE (DAS), J.)

