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

ITAT/286/2024
IA NO: GA/2/2024
PRINCIPAL COMMISSIONER OF INCOME TAX 2, KOLKATA
VS
RAJSHREE INTEGRATED COLD CHAIN PVT LTD

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S SIVAGNANAM
-A N D-
HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)
DATE : 17th July, 2025.

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

The Court : This appeal by the Income Tax department has been filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the order 1.1.2024 passed by the Income Tax Appellate Tribunal, "B" Bench, Kolkata (the Tribunal) in ITA/40/Kol/2021 for the assessment year 2012-13.

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

"1. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in dismissing the appeal of the revenue on addition in respect of share capital and share premium u/s 68 of the Income Tax Act, 1961 without giving due credence to the evidence available on record ?

2. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in dismissing the appeal of the revenue by relying on the unmeritorious finding of the CIT(A) in the case ignoring the identity of the share subscribing company even in the case of a

> *company which is presently struck off and ignoring the fact that huge amount had been invested in the Company in the beginning year of its incorporation defying the financial jurisprudence ?"*

We have elaborately heard Mr. Soumen Bhattacharjee, learned advocate for the appellant/revenue.

The appeal filed by the department before the learned Tribunal challenging the order passed by the Commissioner of Income Tax (Appeals)-7, Kolkata [CIT(A)] dated 22.9.2020 was dismissed. The CIT(A) by the said order had set aside the assessment order passed under section 143(3) dated 12.3.2015. The issue is whether the assessing officer was justified in invoking section 68 of the Act. The learned Tribunal noted the three factors which are required to be satisfied, namely, the assessee should establish the identity and creditworthiness of the shareholders and also prove the genuineness of the transaction. The three aspects have been elaborately dealt with by the learned Tribunal while affirming the order passed by the CIT(A). In fact, the learned Tribunal in paragraph 7.2 has quoted the factual finding recorded by the CIT(A). Apart from that, the learned Tribunal has also perused the paper book and documents which were placed from which it was shown that all the share applicants are income tax assessee, they are filing their income tax returns, share application forms and allotment letters are available on record, share application money was made by account payee cheques, details of the bank accounts belonging to the share applicants and their bank statements were produced, none of the transactions are any deposit of cash before issuing cheques to the assessee and all the share applicants are having substantial creditworthiness represented by their capital and reserves.

Thus, the matter being entirely factual, we find no question of law, much less substantial questions of law arises for consideration.

Accordingly, the appeal fails and the same is dismissed.

Accordingly, the application, GA/2/2024 also stands dismissed.

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(T.S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)

SN/pkd.
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