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ORDER SHEET
ITA/73/2018
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

GRAPHITE INDIA LIMITED
VS
COMMISSIONER OF INCOME TAX, -IV, KOLKATA

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND
The Hon'ble JUSTICE CHAITALI CHATTERJEE (DAS)
Date: 18th May, 2026.

Appearance:
Mr. Somak Basu, Adv.
Mr. Swagato Kabiraj, Adv.
...for the appellant

Mr. Prithu Dudhoria, Adv.
Mr. Madhu Jana, Adv.
Mr. Wahed Reja, Adv.
...for the respondent

The Court: Learned counsel appearing for the appellant refers to the substantial question of law that was admitted on 7th June, 2018 by an order passed by their Lordships Hon'ble Justice Aniruddha Bose and Hon'ble Justice Amitabha Chatterjee. The substantial question of law is as follows:

> "(a) Whether on the facts and circumstances of the case, the Tribunal was justified in law in holding the sales tax remission received in the form of sales tax subsidy under the West Bengal Incentive Scheme, 1993, was revenue receipt, following an earlier view taken by the Tribunal in the assessee's own case for the assessment year 2003-04 ?"

The assessee received sales-tax remission under the West Bengal Incentive Scheme, 1993, which was granted to encourage expansion and modernization of industrial units located in backward areas and was directly linked to investment fixed capital.

The nature of such subsidy must be determined by applying the well-settled "purpose test". In CIT v. Ponni Sugars and Chemicals Ltd. (306 ITR 392), the Supreme Court held that where the object of the subsidy is to enable setting up or expansion of an industrial unit, the receipt is capital nature irrespective of the mechanism through which it is granted. The principle was reiterated in CIT v. Shree Balaji Alloys (333 ITR 335), where incentive aimed at promoting industrialization in backward regions were held to be capital receipts. This Court in PCIT v. Ankit Metal & Power Ltd. (416 ITR 591) applied the aforesaid test and held that subsidies linked to capital investment for industrial development cannot be treated as revenue receipts.

A perusal of the West Bengal Incentive Scheme, 1993 clearly demonstrates that the remission was intended to induce fresh capital investment and expansion of industrial capacity. It was not a subsidy to assist the assessee in carrying on its trade more profitably.

The Tribunal, therefore, erred in treating the said subsidy as revenue in nature. We accordingly answer substantial question of law (a) in the negative, i.e., in favour of the assessee and against the revenue.

The appeal, being ITA/73/2018 is disposed of.

(RAJARSHI BHARADWAJ, J.)

(CHAITALI CHATTERJEE (DAS), J.)

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