OD – 14

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

ORIGINAL SIDE

ITAT/164/2025
IA NO: GA/1/2025, GA/2/2025
PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA
VS
KANYA KUMARI PROPERTIES LTD

BEFORE :
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
And
THE HON'BLE JUSTICE UDAY KUMAR
Date : 9th January, 2026

Appearance :
Mr. Aryak Dutt, Adv.
Mr. Prithu Dudheria, Adv.
…for appellant.

Ms. Alisha Das, Adv.
Ms. Elina Dey, Adv.
…for respondent.

The Court : Heard learned counsels for the parties.

There is a delay of 77 days in filing the appeal. We are satisfied with the explanation offered for not preferring the appeal within time. Therefore, the delay is condoned. The application is allowed.

The application [IA NO: GA/1/2025] is disposed of.

The substantial questions of law as suggested by the appellant/department are as follows :

"a) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in deleting the disallowance of Rs. 4,73,50,000/- u/s 35(1)(ii) of the Act, made on account of statement provided by the auditor, director and founder of donee research institute?

b) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in allowing the appeal of the assessee basing the adjudication on mere paper documents furnished by the assessee ?

c) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in providing his verdict against the revenue by ignoring the fact that the HHBRF was involved in providing accommodation entry in lieu commission and for such act, the CBDT withdrew is approval in respect of HHBRF during 2016?

d) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in not considering the detailed report of the Investigation Wing on HHBRF the donee company?

e) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law by not considering that the assessee itself withdrew its bogus claim by written submission before AO during the course of assessment proceeding?

f) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in not considering the judicial principles laid own in the matter of Pr. CIT Vs. Swati Bajaj reported in [2022] 139 taxmann.com 352 (Cal)/ (2022) 446 ITR 56 (Cal) wherein the Hon'ble High Court at Calcutta laid down guidelines on the manner in which the allegation against the assessee has to be considered ?

g) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in deleting the addition made by the

Assessing Officer u/s 68 which was based on the probability of surrounding circumstances, and in human behaviour as laid down by the Hon'ble Supreme Court in the case of Sumati Dayal vs CIT [1995] 2214 ITR 801 (SC) and CIT vs Durga Prasad More [1973] CTR (SC), 500/[1971] 82 ITR 540(SC) ?

h) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in deleting the addition made by the Assessing Officer u/s 68, based on the preponderance of probability and human consideration as laid down by the Hon'ble Supreme Court in the case Sreelekha Banerjee vs CIT, reported in | 1963] 49 ITR 112(SC)?

i) WHETHER in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law in providing his verdict in favour of the assessee where there is an organized tax evasion in the form of accommodation entry behind the curtain of donation u/s 35(1)(ii) for scientific research organization. It is well known that organized tax evasion in the form of accommodation entry is an exceptional clause as per Para 3.1(h) of CBDT Circular 05/2024 dated 15/03/2024?"

Heard Mr. Dutt, learned counsel for the appellant and perused the order of the Tribunal.

In this case the relevant assessment year is 2012-13. The assessee has donated a sum of a Rs.2,50,00,000/- via RTGS which is apparent from the documents filed by the assessee i.e. the ledger, bank book and bank statement and produced before the Assessing Officer, CIT (Appeal) and the Tribunal. So, it is apparent that the assessee did not make payments to an unknown person but to an organization approved by the Central Government u/s 35(1)(ii) of the Act. It is submitted by the learned counsel appearing for the department that the recognition of the research institution namely HHBRF was cancelled in the year 2016. As such, this donation relates to the assessment year 2012-13 and the payment of Rs.2,50,00,000/- is disclosed in audited account and deduction claimed under Section 35(1)(ii) of the Act.

On the above facts, we do not find any substantial questions of law arise from the impugned order of the Tribunal and the appeal is dismissed. Consequently, the application IA GA/2/2025 stands dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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