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ITAT/192/2025
IA NO: GA/1/2025, GA/2/2025
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX 2 KOLKATA
VS
M/S RADIANT COMMERCIAL AND INVESTMENT PRIVATE LIMITED

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
-AND-
The Hon'ble JUSTICE UDAY KUMAR
Date: 19th January, 2026.

Appearance:
Mr. Aryak Dutt, Adv.
Mr. Soumen Bhattacharjee, Adv.
Mr. Ankan Das, Adv.
Ms. Shradhya Ghosh, Adv.
. . .for the appellant.

Mr. Pankaj Agarwal, Adv.
Ms. Champa Pal, Adv.
. . .for the respondent.

The Court: The affidavit of service filed in the Court has been duly examined and is hereby formally taken on record.

Heard learned counsel appearing for either of the parties.

There is a delay of 261 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 being GA/1/2025 is allowed.

Learned counsel appearing for the appellant submits that the tax effect involved in the present case is reported to be Rs.48,54,112/-. It is emphasized that this amount is below the monetary threshold specified for filing an appeal before this Court, as outlined in Circular No. 9/2024 dated 17th September 2024. The counsel further contends, however, that despite the tax effect being below the prescribed limit, the present matter nonetheless falls within the scope of an exception carved out in Clause 3.1(h) of Circular No.5 of 2024 dated 15th March 2024. This exception, as interpreted in conjunction with Circular No. 9/2024, pertains to cases where the issues involved are of substantial legal importance or involve questions of law that merit consideration irrespective of the monetary threshold.

The learned counsel advances several substantial questions of law for the Court's consideration, which are as follows:

> "I) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in deleting the addition of Rs. 1,95,50,000/- under section 68 of the Income Tax Act, 1961 ignoring the fact that the assessee failed to produce cogent explanation on the issue up to the satisfaction of the Assessing Officer.
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> II) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in relying in only paper documents produced by the assessee and in ignoring the rightful requirement of deep & thorough investigation on the issue for which

examination of the respective directors of the subscriber companies under oath was essential.

III) Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in ignoring the principle laid down by the Hon'ble Supreme Court in the case of Pr.CIT (Central)-1 Kolkata vs NRA Iron & Steel Pvt. Ltd. regarding onus of the assessee in relation to section 68 of the Act.

IV. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in not taking the cognizance of the judicial principles laid down in PCIT (Cen)-2 vs M/s BST Infratech Ltd vide ITAT/67/2024 dated 23/04/2024.

V. Whether raising of share capital by the assessee company is nothing but the involvement of organized tax evasion and falls under exceptional clause in para 3.1(h) of the CBDT Circular No. 5/2024 date 03/05/2024.

VI. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law by not considering the principles laid down in the Doctrine of "source of source" and Doctrine of "origin of origin" while passing the impugned order."

After carefully hearing the submissions made by the appellant and thoroughly perusing the Tribunal's order along with the assessment records, this Court observes that the present appeal does not fall within the scope of the exception clause outlined in Clause 3.1 of Circular No.5 of 2024 dated 15th March, 2024. The Court notes that the issues raised do not pertain to questions of substantial legal importance that would warrant an exception under the circular's provisions.

Consequently, the Court finds that no substantial question of law arises for consideration in this matter. Accordingly, the appeal along with the connected application, is hereby dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

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