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ORDER SHEET
ITAT/215/2025
IA NO: GA/1/2025, GA/2/2025
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

PRINCIPAL COMMISSIONER OF INCOME TAX 5 KOLKATA
VS
KCO ALUMINIUM LLP

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND
The Hon'ble JUSTICE UDAY KUMAR
Date: 9th March, 2026.

Appearance:
Mr. Amit Sharma, Adv.
Mr. Abhishek Kr. Agarwal, Adv.
...for the appellant

Mr. Ramesh Kr. Patodia, Adv.
Ms. Megha Agarwal, 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 179 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.

The appeal is admitted on the following substantial questions of law for consideration.

> "(i) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was justified in law in quashing the order under Section 263 dated 31.03.2024 without considering that the Pr. CIT correctly invoked the provisions of Section 263 holding the order u/s. 143(3)/144B dated 17/06/2021 as erroneous in so far as it was prejudicial to the interest of the Revenue on the grounds that the Assessing Officer added only the closing figure of unsecured loans at the year-end amounting to Rs. 13,32,70,420/- to the total income of the assessee contrary to the provisions of Section 68 and failed to charge the entire amount of unexplained unsecured loans of Rs. 35,40,80,869/- availed during the year to tax even though the assessee failed to provide complete details of such loans during the assessment proceedings?
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> (ii) Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was justified in law in quashing the order under Section 263 dated 31.03.2024 based on an incorrect understanding that the Pr. CIT has merely substituted his opinion with that of the Assessing Officer, while failing to consider that the Pr. CIT in his order u/s. 263 has rightly invoked the provisions of Section 68 for taxing the entire sum credited in the books of accounts of the assessee in any previous year for which the assessee offers no explanation or the explanation so offered is not satisfactory?

(iii) Whether the Learned Tribunal has substantially erred in law in quashing the order under Section 263 of the Income Tax Act, 1961 dated 31.03.2024 by misinterpreting the provision of Section 263 of the Income Tax Act, 1951 and not recognizing the deficieniсy in the investigation conducted by the Assessing Officer for which the revisionary power was rightly exercised by the Learned Pr. CIT?"

The appellant shall file requisite number of informal paper books prepared out of Court including therein all relevant materials used before the learned Court below within ten weeks from date and serve copies thereof upon the learned advocate for the respondent.

Settlement of index and all other formalities are dispensed with.

Since the respondent is represented, service of notice of appeal stands dispensed with.

Let the matter be listed twelve weeks hence.

IA No.GA/2/2025 is disposed of.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

SP/