

OD-11

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITAT/98/2024
IA NO: GA/2/2024
AGARPARA JUTE MILLS LIMITED
VS
PRINCIPAL COMMISSIONER OF
INCOME TAX (CENTRAL)-1, KOLKATA

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
DATE : 12th APRIL, 2024.

Appearance :
Mr. Pratyush Jhunwala, Adv.
...for appellant.
Ms. Smita Das De, Adv.
Mr. Prithu Dudheria, Adv.
..for respondent.

The Court:- We have heard learned Counsel on either side.

The appeal is admitted on the following substantial questions of law:

- i) Whether at the time of issuance of an order of intimation an issue which was debatable and covered against the revenue at the said time be considered and a disallowance be made with respect to such an issue ?
- ii) Whether the disallowance of the claim made under section 36(1)(va) of the Income Tax Act, 1961 could have been made in an intimation order issued under section 143(1) of the Act especially when the decisions of the Commissioner of Income Tax v. Alom Extrusions Limited (2009) 319 ITR 306 (SC) and Commissioner of Income Tax v. Vijay Shree Limited (2014) 43 taxmann.com 396 (Cal) held the field and the same were against the revenue department ?

- iii) Whether the amendments made by the Finance Act, 2021 are prospective and not applicable to the assessment year 2020-21?
- iv) Whether the disallowance of Rs.1,22,48,863/- is erroneous, contrary to law and the findings and observations in the order of the authorities below are perverse?
- v) Whether the Tribunal erred in not considering that the periods covered by the covid-19 pandemic and/or the notifications and/or circulars issued by Employees Provident Fund Organization and/or Employees State Insurance Corporation cannot be said that to have been deposited beyond the due date and as no disallowance can be made with respect to the said sums?

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 on the respondent is waived.

Let the matter be listed twelve weeks hence.

The stay application stands closed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA,J.)