

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

ITAT/244/2023
IA NO: GA/1/2022, GA/2/2023
PRINCIPAL COMMISSIONER OF INCOME TAX-2, KOLKATA
VS.
RAUDRAMUKHI COMMERCIAL PVT. LTD.

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 13th December, 2023

Appearance :
Mr. Soumen Bhattacharjee, Adv.
...for appellant

The Court : There is a delay of 63 days in filing the instant appeal by the revenue. Respondent has been served and affidavit of service has been filed. None appears for the respondent.

We are satisfied with the explanation offered by the appellant/revenue for not preferring the appeal within the period of limitation. Hence the application for condonation of delay IA No: GA/1/2022 is allowed. Delay in filing the appeal is condoned.

We have heard Mr. Soumen Bhattacharjee, learned standing counsel appearing for the appellant.

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

- i) Whether the Learned Tribunal has committed a substantial error of law in concluding that the issuance of shares at a high premium is a

management decision inasmuch as in doing so the learned Tribunal has failed to take note of the surrounding circumstances ?

- ii) Whether the Learned Tribunal has committed substantial error of law in holding that genuineness of the investors cannot be doubted as the share applicants were existing assessees under the Income Tax Act ?
- iii) Whether the Learned Tribunal has committed a substantial error of law by dismissing the appeal of the revenue and rejecting the revenues case for addition in respect of share capital and share premium under Section 68 of the Income Tax Act, 1961 when the identity, genuineness and creditworthiness of the transactions had not been proved at all ?

The application for stay being IA No: GA/2/2023 is disposed of.

Since all material papers are available in the stay application, though the stay application is formally disposed of, the same be retained and treated as an informal paper book in this appeal.

Since the respondent is not represented by their learned Advocate, let notice of this appeal be served on the respondent.

All other formalities are dispensed with.

List the appeal for hearing after 12(twelve) weeks.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)